QUÉBEC'S POSITIONS ON CONSTITUTIONAL AND INTERGOVERNMENTAL ISSUES

FROM 1936 TO MARCH 2001

Québec

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QUÉBEC'S POSITIONS ON CONSTITUTIONAL AND INTERGOVERNMENTAL ISSUES

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TABLE OF CONTENTS

Description of the method used in this document 13

PART 1: POSITIONS OF QUÉBEC 15

First Government of Maurice Duplessis (August 26, 1936 to October 25, 1939) 16
- Constitutional amending procedure 16
- Distribution of powers 16
  - General principles 16
- Intergovernmental policy 16
  - Conducting intergovernmental relations 16

Government of Adélard Godbout (November 8, 1939 to August 8, 1944) 17
- Distribution of powers
  - a) General principles 17
  - b) Unilateral powers 17
- Intergovernmental policy 17
  - Financial aspects of federalism 17

Second Government of Maurice Duplessis (August 30, 1944 to September 7, 1959) 19
- Status of Québec 19
- Constitutional reform process 19
- Constitutional amending procedure 19
- Distribution of powers 20
  - a) General principles 20
  - b) Sectorial jurisdictions 21
  - c) Unilateral powers 22
- Institutions 22
- Intergovernmental policy 23
  - Financial aspects of federalism 23

Government of Paul Sauvé (September 11, 1959 to January 2, 1960) 24
- Distribution of powers 24
  - Sectorial jurisdictions 24
- Intergovernmental policy 24
  - Financial aspects of federalism 24

Government of Jean Lesage (July 5, 1960 to June 5, 1966) 25
- Status of Québec 25
- Constitutional reform process 25
- Constitutional amending procedure 25

Distribution of powers 25
    a) General principles 25
    b) Sectorial jurisdictions 27
    c) Unilateral powers 27
Language rights 27
Intergovernmental policy 28
    a) Conducting intergovernmental relations 28
    b) Financial aspects of federalism 28

**Government of Daniel Johnson, Sr.
(June 16, 1966 to September 26, 1968)** 30
Status of Québec 30
Constitutional reform process 30
Distribution of powers 31
    a) General principles 31
    b) Sectorial jurisdictions 31
    c) Unilateral powers 33
Individual and language rights 33
Institutions 34
Intergovernmental policy 35
    Financial aspects of federalism 35

**Government of Jean-Jacques Bertrand
(October 2, 1968 to April 29, 1970)** 36
Status of Québec 36
Constitutional reform process 36
Distribution of powers 36
    a) General principles 36
    b) Sectorial jurisdictions 37
Individual and language rights 38
Institutions 38
Intergovernmental policy 38
    a) Conducting intergovernmental relations 38
    b) Financial aspects of federalism 38

**First Government of Robert Bourassa
(May 12, 1970 to November 15, 1976)** 39
Status of Québec 39
Constitutional reform process 39
Constitutional amending procedure 40
Distribution of powers 40
    a) General principles 40
    b) Sectorial jurisdictions 41
    c) Unilateral powers 43
Individual and language rights 44
Institutions 44
Intergovernmental policy 44
    a) Conducting intergovernmental relations 44
    b) Financial aspects of federalism 45

Government of René Lévesque
(pre-referendum period, November 25, 1976 to May 20, 1980) 47
- Status of Québec 47
- Constitutional reform process 48
- Distribution of powers 48
  - a) General principles 48
  - b) Sectorial jurisdictions 49
  - c) Unilateral powers 51
- Individual and language rights 51
- Institutions 52
- Intergovernmental policy 52
  - a) Financial aspects of federalism 52
  - b) Aboriginal Nations 53
  - c) French-Speaking and Acadian Communities of Canada 53

Government of René Lévesque
(post-referendum period, May 21, 1980 to May 1985) 54
- Status of Québec 54
- Constitutional reform process 55
- Constitutional amending procedure 56
- Distribution of powers 56
  - a) General principles 56
  - b) Sectorial jurisdictions 56
  - c) Unilateral powers 58
- Individual and language rights 59
- Institutions 59
- Intergovernmental policy 60
  - a) Conducting intergovernmental relations 60
  - b) Financial aspects of federalism 60
  - c) Aboriginal Nations 60

Governments of René Lévesque and Pierre Marc Johnson
(May to December 2, 1985) 62
- Status of Québec 62
- Constitutional reform process 62
- Constitutional amending procedure 62
- Distribution of powers 62
  - a) Sectorial jurisdictions 62
  - b) Unilateral powers 63
- Individual and language rights 63
- Institutions 63
- Intergovernmental policy 64
  - a) Conducting intergovernmental relations 64
  - b) French-Speaking and Acadian Communities of Canada 64
  - c) Trade 64

Second Government of Robert Bourassa
(period preceding the failure of the Meech Lake Accord,
December 12, 1985 to June 21, 1990) 65
- Status of Québec 65
- Constitutional reform process 65

- Constitutional amending procedure 67
- Distribution of powers 67
  - a) Sectorial jurisdictions 67
  - b) Unilateral powers 68
- Individual and language rights 68
- Institutions 68
- Intergovernmental policy 68
  - a) Conducting intergovernmental relations 68
  - b) Financial aspects of federalism 69
  - c) Aboriginal Nations 69
  - d) French-Speaking and Acadian Communities of Canada 70
  - e) Trade 70

Second government of Robert Bourassa (period following the failure of the Meech Lake Accord, June 22, 1990 to January 11, 1994) 72

- Status of Québec 72
- Constitutional reform process 73
- Constitutional amending procedure 77
- Distribution of powers 77
  - a) General principles 77
  - b) Sectorial jurisdictions 78
  - c) Unilateral powers 81
- Individual and language rights 81
- Institutions 82
- Intergovernmental policy 82
  - a) Conducting intergovernmental relations 82
  - b) Financial aspects of federalism 82
  - c) Aboriginal Nations 83
  - d) French-Speaking and Acadian Communities of Canada 83
  - e) Trade 83

Government of Daniel Johnson, Jr. (January 11, 1994 to September 26, 1994) 85

- Distribution of powers 85
  - a) General principles 85
  - b) Sectorial jurisdictions 85
  - c) Unilateral powers 86
- Intergovernmental policy 86
  - a) Financial aspects of federalism 86
  - b) Trade 86

Government of Jacques Parizeau (September 26, 1994 to January 29, 1996) 88

- Status of Québec 88
- Constitutional reform process 90
- Distribution of powers 90
  - a) Sectorial jurisdictions 90
  - b) Unilateral powers 92
- Language rights 92

Intergovernmental policy 92
    a) Conducting intergovernmental relations 92
    b) Financial aspects of federalism 93
    c) Aboriginal Nations 93
    d) French-Speaking and Acadian Communities of Canada 94
    e) Trade 95
    f) Transportation 95

Government of Lucien Bouchard (January 29, 1996 to March 8, 2001) 96
Status of Québec 96
Constitutional reform process 102
Constitutional amending procedure 102
Distribution of powers 103
    a) General principles 103
    b) Sectorial jurisdictions 104
    c) Unilateral powers 109
Language rights 113
Institutions 113
Intergovernmental policy 113
    a) Conducting intergovernmental relations 113
    b) Financial aspects of federalism 114
    c) Aboriginal Nations 115
    d) French-Speaking and Acadian Communities of Canada 116
    e) Trade 116
    f) Criminal justice system for young persons 116

PART 2: SPEECHES 119

Adélard Godbout:
Declaration during the debate on the Act respecting an Agreement between the Governments of the Dominion and of the Province of Québec for the suspension of certain taxes during the war, Québec Legislative Assembly, April 1942 121
Maurice Duplessis:
Opening statement before the Federal-Provincial Conference on the Constitution, Ottawa, January 10 to 12, 1950 (extract) 122
Maurice Duplessis:
Declaration made upon the first reading of Bill 43 on the implementation of a provincial income tax, Québec Legislative Assembly, January 14, 1954 (extract) 125
Jean Lesage:
Statement on shared-cost programs, Federal-Provincial Conference, Québec, March 31, 1964 (extract) 126
Jean Lesage:
Selected extracts from the book *Un Québec fort dans une nouvelle Confédération*, June 1965 128
Paul Gérin-Lajoie:
Speech to the Members of the Montréal Consular Corps, Montréal, April 12, 1965 130
Daniel Johnson, Sr.:
Opening statement given at the first meeting of the Constitutional Conference held in Ottawa, February 5, 1968 135

Jean-Jacques Bertrand:
Opening statement given at the second meeting of the Constitutional Conference held in Ottawa, February 10, 1969 (extract) 141

Robert Bourassa:
Statement on the Victoria Constitutional Charter, Québec National Assembly, June 23, 1971 146

René Lévesque:
Statement on the referendum question, Québec National Assembly, December 20, 1979 147

René Lévesque:
Statement made at the Meeting of the First Ministers in Ottawa from June 8 to 13, 1980, June 9, 1980 150

René Lévesque:
Declaration at the Federal-Provincial Conference of the First Ministers on the Constitution, held in Ottawa, November 5, 1981 153

Gil Rémillard:
Speech given at the Symposium on "Rebuilding the Relationship: Québec and its Confederation Partners," Mont-Gabriel, May 9, 1986 157

Robert Bourassa:
Speech upon the tabling of the motion proposing that the Québec National Assembly authorize the amendment of the Canadian Constitution in compliance with the Meech Lake Accord, June 18, 1987 163

Claude Ryan:
Reconciliation: A Québec View. Speech given at a seminar on language rights and policies, Kingston, December 8, 1989 (extract) 167

Robert Bourassa:
Speech delivered at the Québec National Assembly upon the rejection of the Meech Lake Accord, June 22, 1990 172

Robert Bourassa:
Message to the people of Québec following the failure of the Meech Lake Accord, June 23, 1990 173

Gil Rémillard:
Speech at the Canadian Bar Association Meeting, Whistler, February 24, 1992 176

Jacques Parizeau:
Message to the Nation upon the issuing of the referendum briefs, Québec, October 1, 1995 180

Lucien Bouchard:
Statement following the Meeting of the First Ministers in Calgary, Québec, September 16, 1997 184

Jacques Brassard:
Ministerial statement on the territorial integrity of Québec, Québec National Assembly, November 12, 1997 188

Lucien Bouchard:
Preliminary statement the day following the Opinion of the Supreme Court of Canada on the federal government's Reference concerning Québec's accession to sovereignty, Québec, August 21, 1998 190

Joseph Facal:
Who fears Quebecers' Democratic Determination? Brief presented before the Legislative Committee of the House of Commons entrusted with reviewing Bill C-20 (An Act to give effect to the requirement for clarity as set out in the Opinion of the Supreme Court of Canada in the Quebec Secession Reference), Ottawa, February 24, 2000 194

Joseph Facal:

Globalization, the Federative Deficit and the Case of Québec. Speech delivered on the Occasion of the XVIIIth World Congress of the International Political Science Association, Musée du Québec, August 3, 2000 197

Lucien Bouchard:

Speech presented before the Québec National Assembly upon the passage of Bill 99, An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, December 7, 2000 202

PART 3: DOCUMENTS 207

Document 1

Correspondence between W. L. Mackenzie King, Prime Minister of Canada, and Adélard Godbout, Prime Minister of Québec, regarding the Constitutional amendment on unemployment insurance, 1940 209

Document 2

The 1942 Tax Rental Agreement between the governments of Québec and Canada 217

Document 3

Preliminary brief on the Constitution presented by the Québec government at the Federal-Provincial Conference held in Ottawa from January 10 to 12, 1950 (as reproduced in the proceedings of the Conference) 235

Document 4

Documents on the Constitutional amendment, 1951 (pensions for the aged and the blind): An Act to improve pensions for the aged and the blind (Assented to March 7, 1951), a letter from Maurice Duplessis, Prime Minister of Québec, April 18, 1951 and a telegram from the federal Minister of Justice, Stuart S. Garson, May 4, 1951 (correspondence taken from the Debates of the House of Commons) 239

Document 5

An Act to institute a royal commission of inquiry on constitutional problems (Assented to February 12, 1953) 243

Document 6

Resolution of the Québec Legislative Assembly authorizing the 1960 Constitutional amendment (compulsory retirement of superior court judges upon reaching the age of seventy-five), January 21, 1960 247

Document 7

Resolution of the Québec Legislative Assembly authorizing the 1964 Constitutional amendment (old-age pensions and supplementary benefits) June 15, 1964 249

Document 8

Correspondence from January to February 1966 between the Prime Minister of Québec, Jean Lesage, and the Prime Minister of Canada, Lester B. Pearson, regarding the Fulton-Favreau Formula 251

Document 9

Statement by the Prime Minister of Québec, M. Robert Bourassa, as regards the Victoria Constitutional Charter, Québec, June 23, 1971 (communiqué) 263

Document 10

Resolution of the Québec National Assembly on the right of Quebecers to decide on their constitutional future, May 4, 1978 267

Document 11

Québec-Canada: A New Deal. The Québec Government Proposal for a New Partnership Between Equals: Sovereignty-Association, 1979 (extract) 269

Document 12

The 1980 referendum question and an extract of the Official Report of the Directeur général des élections (results) 291

Document 13

Resolution of the Québec National Assembly regarding the unilateral patriation of the Canadian Constitution, November 21, 1980 295

Document 14

Constitutional Accord, Canadian Patriation Plan, April 16, 1981 (accord signed by the provinces, except Ontario and New Brunswick) 297

Document 15

Resolution of the Québec National Assembly regarding the unilateral patriation of the Canadian Constitution, October 2, 1981 309

Document 16

Constitutional Accord of November 5, 1981, concluded without the participation of Québec 311

Document 17

Order-in-Council No. 3214-81 regarding Québec's opposition to the project for patriating and amending the Canadian Constitution, November 25, 1981 317

Document 18

Resolution of the Québec National Assembly on the conditions without which Québec cannot accept the patriation of the Canadian Constitution, December 1, 1981 319

Document 19

Resolution of the Québec National Assembly dated March 20, 1985 on the recognition of existing aboriginal rights and the resolution dated May 30, 1989 recognizing the existence of the Maliseet Nation 323

Document 20

Draft Agreement on the Constitution. Proposals by the government of Québec, May 1985, and the correspondence between Messrs. René Lévesque, Prime Minister of Québec, and Brian Mulroney, Prime Minister of Canada, regarding these proposals 327

Document 21

Agreement between the government of Québec and the government of Canada pertaining to the Francophone Summit on November 7, 1985 361

Document 22

The 1987 Constitutional Accord, June 3, 1987 ("The Meech Lake Accord") 367

Document 23

Resolution of the Québec National Assembly to authorize an amendment to the Canadian Constitution in accordance with the Meech Lake Accord, June 23, 1987 381

Document 24

An Act to establish the Commission on the Political and Constitutional Future of Québec (Assented to September 4, 1990) 389

Document 25

An Act respecting the process for determining the political and constitutional future of Québec (As assented to on June 20, 1991) 399

Document 26

Resolution of the Québec National Assembly asking the federal government to abide by the process established in Bill 150, November 27, 1991 409

Document 27

Consensus Report on the Constitution: Final Text, Charlottetown, August 28, 1992, (Charlottetown Accord) 411

Document 28

An Act to amend the Act respecting the process for determining the political and constitutional future of Québec (Assented to September 8, 1992) 437

Document 29

Resolution of the Québec National Assembly on the 1992 referendum question and an extract of the Official Report of the Directeur général des élections (results) 439

Document 30

Bill 1, entitled An Act respecting the future of Québec, 1995 443

Document 31

Resolution of the Québec National Assembly on the 1995 referendum question and an extract of the Official Report of the Directeur général des élections (results) 465

Document 32

Resolution of the Québec National Assembly on the right of Quebecers to define their political status, May 1996 469

Document 33

Resolution of the Québec National Assembly authorizing the amendment of section 93 of the Constitution Act, 1867, April 15, 1997 471

Document 34

Decision by the Conseil des ministres no. 97-092 on the fifteenth anniversary of the coming into force of the Constitution Act, 1982, April 16, 1997 473

Document 35

Resolution of the Québec National Assembly dated May 21, 1997 on the October 30, 1995 referendum and the Referendum Act 477

Document 36

The Calgary Declaration (declaration of the provinces and territories except Québec), September 14, 1997 479

Document 37

Guidelines from the government of Québec regarding Canadian intergovernmental relations, December 4, 1997 483

Document 38

The Social Union Framework Agreement, February 4, 1999, that Québec did not sign 485

Document 39

Declaration of the Gouvernement du Québec respecting Québec's participation in international forums dealing with education, language, culture and identity, March 24, 1999 497

Document 40

An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (Assented to December 13, 2000) 501

PART 4: TIMETABLE 509

INDEX 513

DESCRIPTION OF THE METHOD USED IN THIS DOCUMENT

This document describes and lists the positions and recommendations adopted or formulated by successive Québec governments concerning Québec's status and constitutional powers. It updates the study entitled *Québec's Traditional Constitutional Positions* (1936-1990) that was published by the Secrétariat aux affaires intergouvernementales canadiennes, which then expanded the scope of a study made in 1978 by the ministère des Affaires intergouvernementales du Québec on Québec's positions regarding the distribution of powers. In addition to document updating, the recent version offers three new parts made up respectively of speeches, documents and a timetable of events.

The study now covers a period of 64 years, i.e. from August 26, 1936 when the first government of Maurice Duplessis was sworn in, until March 8, 2001, the date when Lucien Bouchard's government ended. It makes no claim to be exhaustive. Furthermore, since the source of each government position has been indexed, the reader can procure an overview not only regarding the nature of these positions, but also their scope, consistency and the issues at stake.

Entitled "Positions of Québec," the first part of the document presents the positions and claims of successive Québec governments in chronological order. The drafting of this part required research into various government sources such as supporting documents, accounts of intergovernmental meetings, communiqués, white papers and legislative discourses.

The classification adopted in the 1991 document was kept intact yet subject to some changes involving a new heading added to the six preceding ones, among other changes.

Bearing the title "Status of Québec," the first heading under part 1 of the document reviews government statements regarding the place that Québec should occupy within the federalist context of Canada, as well as statements dealing with Québec's accession to sovereignty. This heading especially delves into the fundamental interpretations that Québec governments have given to the Constitution Act, 1867, and to issues relevant to the process by which Québec's political status is determined.

The second heading addresses the constitutional reform process. It includes statements pertaining to constitutional policies of various governments, as well as their positions as regards major milestones in the evolution of constitutional affairs as seen from a Québec perspective.

The third heading looks into positions relating to the constitutional amending procedure.

The fourth heading presents positions taken by Québec regarding the distribution of powers. It is divided into three sections: general principles, sectorial jurisdictions, and unilateral powers. The first section covers the principles, criteria and objectives that governments have invoked with regard to the general issue of how powers are distributed. It also includes statements describing the manner in which governments have viewed the interplay of powers. The second section inventories the positions that governments have taken either to affirm and define their jurisdiction over a particular sector of activities, or to claim new ones. Unilateral powers encompass spending, reserve, disallowance, declaratory, residuary and exceptional provisional powers.

The fifth heading, "Individual and language rights," raises the positions taken with regard to such rights within the context of Canadian constitutional reform and within various institutional contexts characteristic of Québec.

The sixth heading reviews Canadian federal institutions, such as the Supreme Court of Canada, the Senate, Federal-Provincial Conferences and the office of the Lieutenant Governor.

The seventh and last heading "Intergovernmental policy," is broader and subdivides into several sections to facilitate consultation. The section on "Conducting intergovernmental relations" includes statements on intergovernmental relation policies set forth by various governments. The section on "Financial aspects of federalism" is a look at various items such as financial autonomy, shared-cost agreements, intergovernmental financial transfers and equity in federal spending. Finally, the remaining sections integrate the positions of principle on certain major intergovernmental issues, especially relations with Aboriginal Nations, the French-Speaking and Acadian Communities of Canada, internal and international trade.

Some government positions belonging to one and the same period could have been reported under several headings used in part 1. To avoid multiple repetitions, references were inserted into the text to indicate positions or declarations that, despite their integration under one heading, are also relevant to other headings. As such, for each chronological subdivision, the reader may procure a broad vision of the field covered by each of the headings. Moreover, the index makes it possible to find positions for the entire period covered by the document based upon specific themes.

In part 1, the chronological subdivisions generally correspond to the succession of governments. Nonetheless, the period covering the Lévesque government (including that of Pierre Marc Johnson) and Robert Bourassa's second government was divided on the basis of major events related to the question of Québec's political status, which wielded influence over the constitutional and intergovernmental policies of those governments.

The second part of the document offers a selection of speeches delivered by the prime ministers and ministers of the Québec government. These speeches are reproduced either integrally or from extensive extracts. They are associated with historic circumstances or they rest upon fundamental issues in the constitutional and intergovernmental domain.

The third part provides a selection of documents linked to Québec's evolution and its positions in constitutional matters, as well as more generally in intergovernmental relations. It also includes Canadian framework texts that Québec did not sign (The Constitutional Agreement, November 5, 1981, which in turn led to the adopting of the Constitutional Act, 1982, without Québec's consent; the Calgary Declaration; and the Social Union Framework Agreement, February 4, 1999, that Québec did not sign).

Finally, the last part of the document includes a short timetable. This is a reference tool intended to facilitate the forming of an historical perspective based on positions, speeches and documents incorporated in this study.

POSITIONS OF QUÉBEC

FIRST GOVERNMENT OF MAURICE DUPLESSIS

(AUGUST 26, 1936 TO OCTOBER 25, 1939)

Roger Bédard

Source: Archives nationales du Québec

••• Constitutional amending procedure

1. The federal pact, by participating in the nature of conventions, can neither be amended nor modified without the agreement of all the parties, i.e. of all the provinces.[1]

••• Distribution of powers

General principles

2. The provinces, to give birth to the federation, agreed to transfer to the federal entity a portion of their powers, but retained, apart from the legislative powers not ceded, their political entity and special constitution. They therefore remained, in their own sphere, sovereign states. The powers and attributes of the provinces do not flow from the central government; on the contrary, the central government was born of the common will of the provinces.[2]
3. The centralization that some circles averse to provincial rights seem to want is a national and social evil [...]. The country's prosperity does not depend on greater centralization of legislative powers. On the contrary, the closer the legislature's contact with the communities for which it legislates, the greater the likelihood that the legislation will be truly productive.[3]

•••Intergovernmental policy

Conducting intergovernmental relations

4. The province of Québec is ready to cooperate closely in establishing an equitable and effective unemployment insurance system that is national in scope, but does not encroach on provincial rights and autonomy.[4]

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[1] Brief submitted by the Québec government, public hearings of the *Royal Commission on Dominion-Provincial Relations*, May 12, 1938, p. 4 (quotation). When a paragraph reproduces a statement in full, it is indicated by the expression "quotation". Otherwise, the position expressed by the government is paraphrased as faithfully as possible. Translator's note: in some cases, the quotations originate from existing texts in English or were translated previously for use in the volume: *Québec's Traditional Constitutional Positions 1936-1990*; all other quotations have been translated to update the current publication. Only the latter bear the usual indication: [Translation].

[2] *Ibid.*, p. 4 (quotation).

[3] *Ibid.*, p. 5 (quotation).

[4] Letter from Maurice Duplessis to W. L. Mackenzie King, Prime Minister of Canada, December 30, 1937 (quotation).

GOVERNMENT OF ADÉLARD GODBOUT

(NOVEMBER 8, 1939 TO AUGUST 8, 1944)

Source: Archives nationales du Québec

••• Distribution of powers

a) General principles

5. It is essential to Canadian unity and to Canada's progress that provincial rights be rigorously respected. Any encroachment on these rights would necessarily weaken Confederation.[5]

6. If Canada is to become a powerful nation, it will be because of the strength and well being of each province of the Dominion. We will never succeed in building a great nation if our provinces do not have sufficient freedom of action and responsibilities, elements of progress that are so necessary in public affairs.[6]

7. Québec considers that after the war, it will be necessary and even imperative not only to deprive the federal government of the exceptional powers it has held since 1939, to restore to the provinces the prerogatives many of them have yielded, but also to revise the text and spirit of the British North America Act, to specify the powers of the provincial governments in certain matters and increase their powers in certain others.[7]

b) Unilateral powers

8. If there exists in any part of the country a situation that could compromise the effectiveness of Canada's war effort, no province of the Dominion nor any group of its population would deny the federal government the right and duty to take the measures necessary to remedy it. But exceptional measures should be used to deal with an exceptional situation.[8]

••• Intergovernmental policy

Financial aspects of federalism

9. Under the Tax Rental Agreement 1942, the government of Québec does not cede the right to tax, but only temporarily suspends the levying of two taxes. Ottawa will collect these taxes in return for a compensation favourable to Québec. The government of Québec can put an end to this agreement with one month's notice whereas the federal government can put an end to it only one year after the end of the war.[9] The preamble of the Agreement has the following recital: "Whereas the Province shall not, by agreeing, as hereinafter

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[5] Declaration by Adélard Godbout, Dominion-Provincial Conference, January 15, 1941, p. 85 (quotation), King's Printer, 1941.

[6] Declaration by Adélard Godbout, Dominion-Provincial Conference, January 14, 1941, p. 18 (quotation), King's Printer, 1941.

[7] Declaration by Adélard Godbout in 1944, taken from Claude Morin, *Le combat québécois*, Les Éditions du Boréal express, 1973, p. 68 (quotation).

[8] Opening statement by Adélard Godbout, Dominion-Provincial Conference, January 14, 1941, p. 18 (quotation), King's Printer, 1941.

[9] Declaration by Adélard Godbout before the Québec Legislative Assembly, April 1942, reproduced in Réal Bélanger et al., *Les grands débats parlementaires*, Sainte-Foy, Les Presses de l'Université Laval, 1994, p. 167 (See part 2 of this document). The temporary nature of the suspension of the provincial tax was also reasserted by Alélard Godbout in a letter dated June 9, 1942 addressed to the Prime Minister of Canada, W. L. MacKenzie King.

provided, to desist from imposing certain taxes during the terms of this agreement, be deemed to have surrendered, abandoned or given over to the Dominion any of the powers, rights, privileges or authority vested in the Province under the provisions of The British North America Act, 1867, or any subsequent Act of the Parliament of the United Kingdom, or to have otherwise impaired any of such powers, rights, privileges or authority."[10]

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[10] *Agreement between the Governments of the Dominion and of the Province of Quebec*, May 27, 1942 (Part 3: document no. 2).

SECOND GOVERNMENT OF MAURICE DUPLESSIS

(AUGUST 30, 1944 TO SEPTEMBER 7, 1959)

Roger Bédard

Source: Archives nationales du Québec

••• Status of Québec

10. In 1867, four pioneer provinces decided to form a confederation. It is important to remember this, because it proves conclusively that Confederation was born of the free consent of the four founding provinces. Confederation, let us never forget, is the child of the provinces.[11]

11. Canadian Confederation is a pact of union between two great races.[12]

12. The province of Québec is firmly convinced that the federal system is the only system that can maintain the unity of the country. This system both protects minorities and guarantees the economic interests of each region of the country.[13]

••• Constitutional reform process

13. It seems to us at this time, various amendments to the Canadian Constitution are welcome, but it is our staunch conviction that the spirit of the Canadian Constitution must be integrally respected. From our standpoint, all constitutional issues should be analyzed at this conference, and not just the part of the Constitution that federal authorities have initially submitted to the delegates' consideration.[14]

14. The Province of Québec is heartily in favour of a Canadian constitution decided upon in Canada by Canadians and for Canadians, and amendable through appropriate constitutional and fair methods.[15]

••• Constitutional amending procedure

15. While the Constitution gives the provinces, to a limited degree, the right to amend the Constitution as far as provincial jurisdiction is concerned, it denies the federal government that right.[16]

16. Confederation is essentially a pact. And since the nature of the Constitution is that of a pact, it cannot nor should it be amended without the consent of all the contracting parties, or at least without the consent of the four pioneer provinces.[17]

Constitutional amending procedure:
See also paragraph 14.

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[11] Statement by Maurice Duplessis, Federal-Provincial Conference, April 29, 1946, p. 455 (quotation), King's Printer, 1946.

[12] Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 17-18, King's Printer, 1950 (See part 2 of this document). Maurice Duplessis reiterated this statement at the Federal-Provincial Conference of September and December 1950 and the Federal-Provincial Conference of November 1957.

[13] Statement by Maurice Duplessis, Federal-Provincial Conference, April 29, 1946, p. 399 (quotation), King's Printer, 1946.

[14] Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 16 (quotation) [Translation], King's Printer, 1950 (See part 2 of this document).

[15] *Ibid.*, p. 17 (quotation).

[16] Intervention by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 83, King's Printer, 1950. See also *Report of the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 164.

[17] Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 396, King's Printer, 1946.

••• Distribution of powers

a) General principles

17. The very essence of Confederation is made of sovereign provincial authorities, within the scope of their jurisdiction, and of a sovereign central authority, within the scope of its jurisdiction. When Confederation was discussed and decided upon, it was based on the principle of complete provincial autonomy.[18]

18. Provincial autonomy cannot be safeguarded by substituting federal grants for provincial financial independence.[19]

19. In the social legislation field, the federal system probably offers advantages not found in countries with a single government. Indeed, the coexistence of several governments all autonomous in their respective spheres, because they provide points of comparison, creates by its very nature a healthy rivalry for the greater good of those governed.[20]

20. Canada is a confederation of autonomous provinces. A genuine federal system is based on a federal authority and provincial authorities that enjoy not only the power to legislate and administer, but also the financial powers that enable them to govern.[21]

21. One of the essential prerogatives of autonomous provinces is the ability to collect, by direct taxation and as they consider appropriate, the funds needed for the efficient operation of public services and the implementation of laws passed by their Parliament [...]. Fundamentally, the federal system that allocates public tasks, must also include a correlative distribution of public revenues [...]. A central government that appropriated the sources of taxation for itself would, in fact, reduce the provinces to legislative impotence. A province with no other sources of revenue than federal subsidies would become a kind of lesser body, under the tutelage of the authority that could dole out its means of subsistence.[22]

22. The provinces' exclusive rights in terms of social legislation, education, civil law, etc., must be preserved and protected in their entirety if Confederation is to survive.[23]

23. Social legislation will be more beneficial if it is better adapted to the needs and cultural aspirations of the population to which it applies. Local interest is then the basis of the general interest and provincial legislatures, because of their closer contact with citizens, are in a better position than the federal government to determine the kinds of legislation that should be passed.[24]

24. The province of Québec is not for sale; it will not be sold and it does not ask for any favours. We demand respect

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[18] Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 17 (quotation), King's Printer, 1950 (See part 2 of this document).

[19] Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 407 (quotation), King's Printer, 1946.

[20] *Ibid.*, p. 406 (quotation).

[21] Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 17-18, King's Printer, 1950 (See part 2 of this document).

[22] Brief presented by Maurice Duplessis, Canadian Intergovernmental Conference, Ottawa, October 1955, p. 10 (quotation), Queen's Printer, 1955. See also statement by Maurice Duplessis, Federal-Provincial Conference, Ottawa, November 25 and 26, 1957, p. 25, Queen's Printer, 1957.

[23] Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 407 (quotation), King's Printer, 1946.

[24] *Ibid.*, p. 405 (quotation).

for our rights, we want the educational system to be respected, that our exclusive rights be preserved, and regardless of the government in power, we will continue our struggle, with the conviction that we are on the right path and at the same time requesting the cooperation of all those who love this province, who seek the vitality and survival of a great people and at the same time with respect for our sound religious and national traditions. This is not a question of partisanship, this is not a political issue, in the ordinary sense of the word, it is a question of life and survival. Signs of dangers are many; encroachments are repeated; the wounds that have been made are deep and serious, but this is not a lost cause, far from it, if everyone agrees to recognize this situation.[25]

b) Sectorial jurisdictions

25. Québec considers the following areas to be under the exclusive jurisdiction of the provinces: natural resources, the establishment, funding and management of hospitals, asylums and charitable institutions, education at every level, including universities, regulation of the liberal professions, including admission criteria for the practice of medicine and relations between physicians and clients,[26] social security, health, public health, bridge and road construction.[27]

26. Provinces should have exclusive jurisdiction over the following areas: education, property rights and civil law, hospitals, trades and professions, fisheries, marriage, agriculture, municipal and educational institutions, insurance, establishment of an Appeal Court for civil, municipal and educational issues and the appointment of its members, settlement, natural resources, the provincial civil service, administration of criminal and civil justice, the organization and maintenance of courts of civil and criminal justice in each province, civil procedure and appointment of judges to such courts, clearly defined taxation and borrowing powers over provincial matters.[28]

27. Québec protests against certain federal intrusions into provincial spheres of activity, including the following:
    i) Québec protests against the federal initiative of passing family allowance legislation—which it views as a dangerous encroachment on its rights—and, in 1955, passed a provincial family allowance act which, however, it did not implement.[29]
    ii) In 1950, Québec refused to sign a federal-provincial agreement on funding the construction of the TransCanada Highway because, in Québec's view, the agreement did not provide sufficient guarantees concerning protection of the province's rights.[30]

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[25] Declaration by Maurice Duplessis, Hauterive, May 31, 1959, extracted from Claude Morin, *Le combat québécois*, Les Éditions du Boréal express, 1973, p. 68 (quotation).

[26] Brief by Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 397.

[27] Onésime Gagnon, Budget Speech, March 25, 1947, p. 27.

[28] Preliminary brief by the Québec government. Canadian Intergovernmental Conference begun in Ottawa on January 10, 1950, tabled at the Federal-Provincial Conference on the Constitution, Québec, September 25-28, 1950, p. 100, King's Printer, 1950 (Part 3: document no. 3).

[29] *Report tabled by the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 175.

[30] *Ibid.*, p. 179.

iii) In 1953, Québec blocked a federal proposal to directly fund Canadian universities through the National Conference of Canadian Universities. Québec objected to the federal intervention to replace essential provincial financial powers with federal grants and to encroach on the field of education, which is within exclusive provincial jurisdiction.[31]

28. The fact that the Constitution of 1867 specifically grants to the provinces the right to levy direct taxes conclusively means that the provinces take precedence in matters of direct taxation.[32]

29. The areas of personal income tax, succession duties and corporate income and capital tax are within the jurisdiction of the provinces which need them and have constitutional priority over them.[33] Estate duties belong to the provinces; they stem from the Civil Code and the Canadian Constitution, which reserves matters relating to the Civil Code and property rights exclusively to the provinces [...]. As to personal income tax and corporate taxes, each province holds exclusive rights in terms of direct taxation for provincial purposes.[34]

c) Unilateral powers

30. Parliament's powers of reservation and disallowance should disappear.[35]

••• Institutions

31. The members of the Canadian court that would be created to replace the Privy Council should be appointed by the federal and provincial governments.[36] It is not reasonable and in conformity with a true comprehension of national unity that the federal authority appropriate for itself the right to unilaterally choose the arbitrators called upon to decide on the respective rights of each party.[37] Québec considers that the Supreme Court of Canada should meet all the conditions required of a third arbitrator for constitutional matters and Canadian intergovernmental relations.[38]

32. Matters of civil law, of municipal law and of school law should be adjudicated upon, in the last resort, by a Court of Appeal set up by each Province, the Judges of which should be appointed by each Province.[39]

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[31] Letter from Maurice Duplessis to Stuart Garson, federal Justice Minister, September 15, 1954.

[32] Statement made by Maurice Duplessis, Federal-Provincial Conference, preliminary meeting, Ottawa, April 26, 1955, p. 36, Queen's Printer, 1955.

[33] Brief by the Québec government, Federal-Provincial Conference on Reconstruction, Ottawa, April 25, 1946, p. 400, King's Printer, 1946. Statement delivered by Maurice Duplessis, Federal-Provincial Conference, Ottawa, November 25 and 26, 1957, p. 22, Queen's Printer, 1957.

[34] Opening statement by Maurice Duplessis, Federal-Provincial Conference, Ottawa, November 25 and 26, 1957, p. 22 (quotation), Queen's Printer, 1957.

[35] Preliminary brief by the Québec government. Canadian Intergovernmental Conference begun in Ottawa on January 10, 1950, tabled at the Federal-Provincial Conference on the Constitution, Québec, September 25-28, 1950, p. 101, King's Printer, 1950 (Part 3: document no. 3).

[36] Letter from Maurice Duplessis to George Drew, Head of the federal Conservative Party, April 8, 1947.

[37] Opening statement by Maurice Duplessis, Federal-Provincial Conference on the Constitution, Ottawa, January 10-12, 1950, p. 16 (quotation) [Translation], King's Printer, 1950 (See part 2 of this document).

[38] Preliminary brief by the Québec government. Canadian Intergovernmental Conference begun in Ottawa on January 10, 1950, tabled at the Federal-Provincial Conference on the Constitutional, Québec, September 25-28, 1950, p. 101, King's Printer, 1950 (quotation; see part 3: document no. 3).

[39] *Ibid.*, p. 100.

••• Intergovernmental policy

Financial aspects of federalism

33. Provincial legislative assemblies are essential. Obviously they cannot exercise the legislative powers that have been entrusted to them if they do not have requisite authority in financial matters. The provinces need financial authority to resolve not only current problems, but also those of tomorrow.[40]

34. In these difficult times, there are three things that we need. The first one is a precise definition, a clear distribution of the respective fiscal powers of the provinces and the Dominion. This is the very basis, the keystone of national freedom and security. We need greater simplification in the means for collecting taxes and a lightening of the taxpayer's burden.[41]

35. Québec opposed the federal post-war program because it would tend to replace the system of provincial fiscal autonomy with a system of grants that would enable the federal government to exercise financial control over the provinces. Furthermore, the program would deny the provinces access to the most important sources of direct taxation and, to that extent, paralyze their ability to exercise the powers attributed to them by the Constitution.[42] In theory, the substitution of federal subsidies for the essential financial powers of the democratic government is not recommendable, at least generally speaking. On more than one occasion, Sir Wilfrid Laurier stated that it is unhealthy for a government to collect taxes that are spent by another government.[43]

36. Temporary payments, or what is commonly called generous subsidies, may never compensate the loss of permanent rights whose transfer or abrogation may open the door to consequences that are perhaps disastrous.[44]

37. In 1954, Québec passed a provincial income tax equivalent to approximately 15 % of the federal tax. Québec demanded full deduction of provincial income tax from tax paid to the federal government.[45] With the implementation of this income tax, Québec took another positive step in exercising its rights and fulfilling its duties.[46] Following negotiations with the federal government, Québec obtained an abatement equivalent to 10 % of the federal tax.[47]

Financial autonomy of the provinces:
See also paragraphs 18, 20, 21 and 27.

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[40] Opening statement by Maurice Duplessis, Federal-Provincial Conference, August 6, 1945, p. 22, King's Printer, 1946.

[41] Statement by Maurice Duplessis, Federal-Provincial Conference, April 29, 1946, p. 461 (quotation), King's Printer, 1946.

[42] Brief by the Québec government, Federal-Provincial Conference, April 25, 1946, p. 404, King's Printer, 1946.

[43] Statement by Maurice Duplessis, Federal-Provincial Conference, December 4, 1950, p. 30, King's Printer, 1951.

[44] Statement by Maurice Duplessis, Federal-Provincial Conference, May 1, 1946, p. 582 (quotation), King's Printer, 1946.

[45] *Report tabled by the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 153.

[46] Onésime Gagnon, Budget Speech, February 12, 1954, p. 16.

[47] *Report tabled by the Royal Commission of Inquiry on Constitutional Problems*, Province of Québec, Volume 1, 1956, p. 154-155. See also the declaration by Maurice Duplessis at the first reading of Bill 43 on the implementation of a provincial income tax before the Québec Legislative Assembly, January 14, 1954 (See part 2 of this document).

GOVERNMENT OF PAUL SAUVÉ

(SEPTEMBER 11, 1959 TO JANUARY 2, 1960)

Laval Bouchard

Source: Archives nationales du Québec

••• Distribution of powers

Sectorial jurisdictions

38. Québec considers that federal grants to universities encroach on an area reserved exclusively for the provinces.[48]

39. The Québec government has no constitutional objection to the federal hospital insurance system. Nonetheless, considering the complexity of the Québec hospital system, plus the objections that provinces participating in the program are beginning to formulate, the government wants to undertake an in-depth study of the federal legislation and the means for adapting it to Québec's specific situation before making a decision regarding this program.[49]

••• Intergovernmental policy

Financial aspects of federalism

40. Québec demands that the provincial university education tax be tax deductible. Under this plan, commercial companies in Québec would be entitled to a deduction of 10% rather than 9% of the annual tax they pay on their profits. This increase would generate approximately the same amount for Québec's treasury as the federal government makes available to universities in Québec.[50]

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[48] Statement by Paul Sauvé, *La Presse*, September 18, 1959.

[49] Statement by Paul Sauvé during a press conference, taken from the article "Québec hésite à cause de son propre système," *Le Devoir*, October 16, 1959, p. 1-2.

[50] Fiscal Conference, October 1959. Antonio Barrette, who was named Prime Minister January 8, 1960, signed a final agreement with the federal government implementing Québec's proposal.

GOVERNMENT OF JEAN LESAGE

(JULY 5, 1960 TO JUNE 5, 1966)

Laval Bouchard

Source: Archives nationales du Québec

••• Status of Québec

41. Québec, as the cornerstone of French Canada, is asking for the equality of Canada's two founding ethnic groups. It is seeking a status that respects its special characteristics.[51]

42. Québec, because of its language, its culture, its links with the international French language community, its economic, social and political institutions, its vitality, its desire to survive and especially to flourish, has all the characteristics of a true society.[52]

Québec's assertion as a people: See paragraph 48.

Special status: See paragraphs 49-50.

••• Constitutional reform process

43. Québec fears that the Fulton-Favreau formula would authorize any province to prevent the extension of the powers of another province. Needless to say, if that interpretation were to prevail, the evolution of our constitutional system in the direction desired by Québec might become very difficult.[53]

••• Constitutional amending procedure

44. To defend its particular status, Québec must have a *veto* over any important constitutional change that could threaten its powers.[54]

45. Among other things, Québec wants a *veto* on any change in the distribution of powers.[55]

46. The central government cannot unilaterally amend its constitution. It is essential that the provinces participate in the formation and operation of central bodies.[56]

••• Distribution of powers

a) General principles

47. Provincial sovereignty must not be a negative concept incompatible with progress; it must be a living reality that is made tangible in institutions and legislation designed to promote the well-being and spiritual growth of the population.[57]

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[51] Speech by Jean Lesage, Canadian Club, Calgary, September 22, 1965, p. 1.

[52] Speech by Jean Lesage, Canadian Club, Winnipeg, October 1, 1965, p. 2-3.

[53] Letter from Jean Lesage to Lester B. Pearson, January 20, 1966 (quotation; see part 3: document no. 8). Jean Lesage had been willing earlier to allow a *veto* for all provinces. See the speech by Jean Lesage to the Reform Club of Montréal, March 1, 1965, p. 3 and the speech given by Jean Lesage before the Québec Chamber of Commerce and Industry, Lac-Beauport, March 10, 1965, p. 4.

[54] Speech by Jean Lesage, Québec Chamber of Commerce and Industry, Lac-Beauport, March 10, 1965, p. 7.

[55] Speech by Jean Lesage to the Reform Club of Montréal, March 1, 1965, p. 3.

[56] Speech by Jean Lesage, Québec Chamber of Commerce and Industry, Lac-Beauport, March 10, 1965, p. 4-5.

[57] Government of Québec, opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 25-27, 1960, p. 26 (quotation).

48. Québec defends the principle of provincial autonomy not just because of the principle, but much more because for Québec, autonomy is the vital condition of its affirmation as a people rather than of its survival, which is now secure.[58]

49. Québec is working to obtain the powers necessary for its economic, social and political affirmation. To the extent that the other provinces are not working toward the same objectives, Québec will move toward a particular status that will reflect both the specific characteristics of its population and the more extensive role it wishes to assign to its government.[59]

50. Québec wishes to point out that particular status is not necessarily an objective in itself. Initially, it may very well be the result of an administrative development and, subsequently, a constitutional one that, while applicable in principle to the other provinces, in practice would be of interest only to Québec for reasons of its own.[60]

51. The provinces have a clear responsibility for the economic development of their territory. They are better placed than the federal government to produce an economic development policy because they are closer to the specific problems of their people and regions. In addition, they are responsible for the development of human capital through appropriate educational, welfare and health measures, which lie within their jurisdiction.[61]

52. While provincial and interprovincial [economic] policies can be implemented, as circumstances require, with or without the federal government's participation, federal policies must never be decided without consulting the provinces. The only way to avoid duplication and inefficiency is through on-going consultation by both levels of government.[62]

53. If regional development policies are to be effective, they must satisfy three conditions: they must be adapted to the specific needs of the regions; they must be applied by the government in the best position to respond; they must take into account the whole social and economic policy of the government of the province where the regions are located. The federal government seems to have difficulty adapting its instruments to the needs of Québec's regions. The Québec government is in the best position to implement a truly effective regional policy.[63]

54. The federal government should cease its intrusion into areas of provincial jurisdiction through excessive use of its ancillary power, which leads to the artificial creation of zones of ambiguity and duplication of administrative controls and standards.[64]

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[58] Opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, November 26-29, 1963, p.42 (quotation), Queen's Printer, 1964.

[59] Speech by Jean Lesage to the Empire & Canadian Club, Toronto, November 16, 1964, p.3-4 and to the Sainte-Foy Chamber of Commerce, December 14, 1965, p.5.

[60] Speech by Jean Lesage, Canadian Club, Vancouver, September 24, 1965, p.4.

[61] Jean Lesage, Budget Speeches, April 12, 1962, p.48 and April 5, 1963, p.59. See also the opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, November 26-29, 1963, p.40, Queen's Printer, 1964.

[62] Opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, November 26-29, 1963, p.48 (quotation), Queen's Printer, 1964.

[63] Government of Québec, statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 19-22, 1965, p.5.

[64] *Ibid.*, p.26.

b) Sectorial jurisdictions

55. Québec claims the entire administration of old age security in order to institute its own pension plan.[65]

56. Social assistance, resource development, working conditions[66], regional development, manpower and employment policy, social security, health services, health insurance, education, roads and land use planning are areas of provincial jurisdiction. They are encompassed by the rights and urgent needs of the provinces which are in a better position than the federal government to have an effective and lasting effect on these areas.[67]

57. In all areas that are wholly or partially within its jurisdiction, Québec henceforth intends to play a direct international role, in accordance with its personality and appropriate to its rights In addition, Québec intends:
    a) to implement international agreements, concluded by the federal government, dealing with issues of provincial jurisdiction;
    b) to participate actively and personally in developing international agreements that interest it directly;
    c) to participate in the activities of certain international organizations of a non-political nature;
    d) to play a direct role in areas that have acquired international importance because of the proliferation of contacts between countries.[68]

58. Québec views social security as an area of provincial jurisdiction, for constitutional, cultural and practical reasons.[69]

Shared-cost programs and conditional subsidies in given sectors: See paragraphs 64-66.

c) Unilateral powers

59. It must be clearly established as one of the fundamental rules of our federalism that the exceptional powers of Parliament must remain exceptional in nature, and not be used to invade areas that normally lie within provincial jurisdiction.[70]

••• Language rights

60. The primacy of French in Québec —namely its widest possible use on a daily basis—is an essential condition for bilingualism and biculturalism in Canada.[71]

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[65] Statement by Jean Lesage, Federal-Provincial Conference, Ottawa, November 26-29, 1963, p. 52, Queen's Printer, 1964, and government of Québec, White Paper on the Québec Pension Plan, 1965. The Lesage government, using the opting out provision of the federal legislation instituting the Canada Pension Plan, established a Québec pension plan in 1965. See Québec Pension Plan, S.Q. 1965, c-24. See also the resolution of the Québec Legislative Assembly dated June 15, 1964 authorizing the Constitutional amending procedure for 1964 (old-age pensions and supplementary benefits) (Part 3: document no. 7).

[66] Brief submitted by Québec at the Conference on Poverty, Ottawa, December 7-10, 1965, p. 17.

[67] Government of Québec, declaration by Jean Lesage, Federal-Provincial Conference, Ottawa, July 19-22, 1965 (see the entire declaration). Moreover, a White Paper from the ministère des Affaires culturelles (1965), which was not tabled in the Legislative Assembly but was made public by the newspaper *La Presse* in September 1966, states that, under the Constitution, Québec has exclusive responsibility in cultural affairs, particularly in terms of defending and promoting French-language culture within its territory, p. 24.

[68] Speech by Paul Gérin-Lajoie, Vice-President of the Québec Executive Council and Minister of Education, before the Montréal Consular Corps, Montréal, April 12, 1965 (See part 2 of this document).

[69] Government of Québec, statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 19-22, 1965, p. 16.

[70] *Ibid.*, p. 27.

[71] Speech by Jean Lesage to the Reform Club of Montréal, March 1, 1965.

••• Intergovernmental policy

a) Conducting intergovernmental relations

61. Québec announces that it will invite all provincial Premiers to a meeting to decide whether permanent interprovincial relations should be established.[72]

62. Cooperative federalism does not mean simply obtaining the consent of the provinces to centralizing policies. Rather, for Québec, it means the beginning of a new era in federal-provincial relations and the dynamic adaptation of Canadian federalism. Federalism should express itself in three ways: 1) regular cooperation when decisions are made concerning new policies; 2) constant consultation on the application of policies; 3) sufficient financial resources granted to the provinces to enable them to carry out their greater responsibilities.[73]

Intergovernmental consultation regarding economic policies: See paragraph 52.

63. Québec considers that henceforth, in the normal course of events, federal actions in the regions of Québec will take place through Québec's administrative structures, after it has approved the objectives and means used. Otherwise, there is the possibility that policies based on differing assumptions could nullify each other.[74]

b) Financial aspects of federalism

64. Québec is resolved to end the system of shared-cost programs and, consequently, has withdrawn from such programs instituted by the federal government and demands either fiscal compensation or the tax point equivalent. These shared-cost programs cause costly duplication, reduce provincial initiative in areas recognized by the Constitution to be within provincial jurisdiction and distort the order of priorities established by the provinces. Experience shows that quite often these shared-cost programs do not allow provinces to use their own revenues as intended while conforming to local conditions.[75]

65. Québec decides to accept on a temporary basis and maintaining full sovereignty, the conditional grants distributed to the other provinces by the federal government (hospital insurance and TransCanada Highway).[76]

66. Québec demands that the federal government transfer to Québec, in the form of tax equivalents, the amounts the federal government wanted to allocate to programs that encroach on provincial jurisdiction, namely student loans and academic allowances.[77]

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[72] Government of Québec, opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 25-27, 1960, p. 28.

[73] Speech by Jean Lesage, Université de Moncton, May 17, 1964, p. 2.

[74] Government of Québec, statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 19-22, 1965, p. 9.

[75] Government of Québec, opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 25-27, 1960, p. 31 and 35. Statements by Jean Lesage, Federal-Provincial Conference, Ottawa, November, 26-29, 1963, p. 49, Queen's Printer, 1964 and Government of Québec, Federal-Provincial Conference, Québec, March 31 and April 1, 1964, p. 10 et seq. (See part 2 of this document). See also the *Act respecting the replacement of joint programs by tax abatement*, Q.S. 1965, c. 8.

[76] Government of Québec, opening statement by Jean Lesage, Federal-Provincial Conference, Ottawa, July 25-27, 1960, p. 32.

[77] Government of Québec, statement by Jean Lesage, Federal-Provincial Conference, Québec, March 31 and April 1, 1964, p. 21-23.

67. Québec demands a new tax distribution that will enable the provinces to concentrate on developing their human capital and carry out their responsibilities in terms of economic development. Québec demands 25 % of personal income tax, 25 % of corporate income tax and 100 % of succession duties, including the tax on gifts inter vivos.[78]

68. Taxation is the economic growth instrument over which Québec still exercises the least amount of control [...]. Unless there is during the coming months a distinctive turnaround in federal policy regarding taxation and the distribution of fiscal powers, we will not feel confident with the understanding that the central government has of the confederate regime. [...] Nevertheless, once again because the distribution of sources of revenue between the various governments of Canada continues to be unacceptable, the people of Québec cannot immediately undertake initiatives that they have deemed to be absolutely important.[79]

Financial autonomy of the provinces:
See also paragraph 62.

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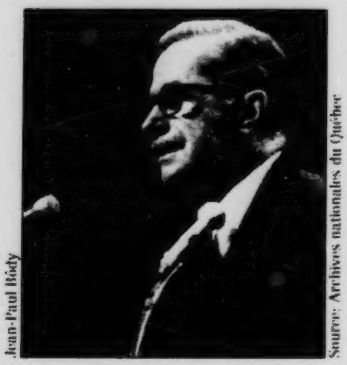
[78] Jean Lesage, Budget Speech, April 14, 1961, p. 78 and statement by Jean Lesage to the Québec Legislative Assembly, *Journal des débats*, January 16, 1964, p. 72. This demand was repeated many times at other Federal-Provincial Conferences (July 1960 and November 1963).

[79] Jean Lesage, Budget Speech, April 5, 1963, Québec Legislative Assembly, *Journal des débats*, April 5, 1963, p. 901-902 (quotation).

GOVERNMENT OF DANIEL JOHNSON, Sr.

(JUNE 16, 1966 TO SEPTEMBER 26, 1968)



Jean-Paul Bédy

Source: Archives nationales du Québec

••• Status of Québec

69. A new Constitution should be designed so that Canada is not solely a federation of ten provinces, but a federation of two nations equal in law and in fact. From an institutional standpoint, a truly bi-national order should be established for the entire country, where the agents of the two cultural communities could work together, on an equal footing, to manage their common interests.[80]

70. The object of the Constitution must not solely be to federate territories, but also to associate as equals two linguistic and cultural communities, two founding peoples, two societies, two nations in the sociological sense of the term. A Canadian constitution must be the product of an agreement between the two nations that make up the people of Canada, and must recognize the principle of the legal equality of the two cultural communities.[81]

71. The Canadian Constitution must take into account the fact that Québec has a special role to play in achieving cultural equality.[82]

72. French Canadians, drawing on their majority situation in Québec, must be able to develop structures, institutions and an environment in Québec that are perfectly attuned to their culture and their aspirations.[83]

Québec, the home of the French Canadian nation: See paragraph 77.

73. Québec prefers to live within a constitutional system that is sufficiently decentralized to take Québec's situation into account, though without preventing other provinces from leaving to the federal government, or carrying out jointly with it, those responsibilities they do not wish to assume.[84]

••• Constitutional reform process

74. If it is to be viable, the Canada of tomorrow must be founded on a new constitution [...]. The constitution must allow for the association of two societies, their cooperation within common institutions, the respect of fundamental collective rights and the normal aspirations of each society.[85]

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[80] Daniel Johnson, *Égalité ou indépendance, 25 ans plus tard*, Montréal, VLB éditeur, 1990, see part three entitled "Une constitution nouvelle."

[81] Opening statement by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, Office d'information et de publicité du Québec, p. 63 (See part 2 of this document).

[82] Working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968. These proposals had been approved by Daniel Johnson (See *Les positions traditionnelles du Québec sur le partage des pouvoirs 1900-1976*, gouvernement du Québec, ministère des Affaires intergouvernementales, Éditeur officiel du Québec, 1978, p. 9).

[83] Opening statement by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 57 (See part 2 of this document).

[84] *Ibid.*, p. 59-60.

[85] Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 42 (quotation).

75. The new constitutional proposal must have four objectives: 1) clearly define the guiding principles of political life in Canada; 2) establish a new distribution of powers and resources that will allow the French Canadian nation to flourish and English Canada to develop freely; 3) institutionalize or implement intergovernmental mechanisms for consultation, coordination and action; 4) change the way certain existing Canadian institutions and structures operate, modernize others and create new ones so that, overall, they reflect Canada's bi-national reality.[86]

76. Canada should call itself "Canadian Union" and should eventually become a republic.[87]

••• Distribution of powers

a) General principles

77. The equality that must be established between Canada's two cultural communities depends not only on a territorial extension of bilingualism, but even more on greater powers for Québec, the home of the French Canadian nation.[88]

78. To ensure the equality of the French Canadian nation, Québec needs greater powers. It wants to make its own decisions in certain areas: 1) development of its human resources (i.e. every aspect of education, social security and health); 2) economic affirmation (i.e. the power to implement economic and financial mechanisms); 3) cultural expression (arts, letters and the French language); 4) the influence of the Québec community.[89]

79. Québec is seeking greater decentralization of powers than currently exists.[90] The Québec government proposes a new distribution of powers whereby all provinces would initially be attributed identical constitutional powers, and a constitutional provision would allow administrative or legislative delegation of powers to the federal government. The provinces themselves, under the new system, would decide the effective extent of their own responsibilities [...]. We feel such a situation would not be incompatible with federalism and such solutions should be embraced if they become necessary because of the sociological reality of the country.[91]

80. Québec wants to strip Ottawa of the ability to constantly intervene in provincial affairs by virtue of what are called indefinitely extensible powers.[92]

81. The Constitution should make formal provisions for the delegation of legislative powers.[93]

***Charter of human rights and distribution of powers:
See paragraphs 88 and 90.***

b) Sectorial jurisdictions

82. Québec considers the following sectors to be within its exclusive jurisdiction:

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[86] Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 43 (quotation).

[87] Working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968.

[88] Opening statement by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 64 (See part 2 of this document).

[89] Statement by Daniel Johnson, fourth meeting of the Federal-Provincial Tax System Committee, Ottawa, September 14-15, 1966 in *Le gouvernement du Québec et la Constitution*, 1968, p. 4; see also the preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 45.

[90] *Ibid.*, p. 44 et seq.

[91] *Ibid.*, p. 47 (quotation); see also the opening statement by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 59-60 (See part 2 of this document).

[92] Speech by Daniel Johnson, Union nationale benefit dinner, Montréal, February 25, 1968.

[93] Working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968.

culture, adult education, university research[94], vocational training programs, cooperative training programs and training programs for the jobless[95], urban development and housing, municipal structure, municipal powers and land use planning.[96]

83. The federal government must not have sole jurisdiction over the allocation of broadcast frequencies. Québec cannot tolerate much longer being excluded from an area in which its vital interest is so clear.[97]

84. As regards sectorial jurisdictions, Québec's constitutional demands can be expressed as follows[98]:

i) In addition to agriculture and immigration, statistics, the census, bankruptcy, radio, television and film, farm products marketing, food and drugs should be areas of joint jurisdiction. In the event of conflict, priority should be given, on a case by case basis, either to Union (federal) legislation, or State (provincial) legislation.

ii) Education (in all its forms, at every level) and social security (including all social allowances, old age pensions, family allowances, health and hospitals, manpower placement and training) should be assigned to the provinces exclusively.

iii) The following areas should also be placed under exclusive provincial jurisdiction: divorce; business incorporation (except those mentioned as being under federal jurisdiction); the securities industry and control of financial institutions other than banks; labour relations and working conditions for all companies doing business within a province's borders; road transportation; integration of immigrants; public works within a province's borders (except those relating to an area of federal jurisdiction); rehabilitation of inmates; exploration for, conservation and development of resources; land use planning, municipal organization, urban planning, urban development and housing; recreation, leisure and sports.

iv) It should be recognized that the provinces have the authority to negotiate and sign agreements with foreign governments on matters within their internal jurisdiction. Provincial governments should be regularly invited to participate in Canadian delegations at international conferences and meetings of international organizations to which Canada belongs and which affect areas of provincial jurisdiction. Similarly, the provinces should have the right to attend international conferences of interest to them but in which Canada does not participate. In addition, they should have a greater role in foreign aid.[99]

v) The provinces should have access to all sources of tax revenue, but property taxes and succession duties should be reserved for them exclusively.

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[94] Statement by Daniel Johnson, Federal-Provincial First Ministers Conference, Ottawa, October 24-28, 1966, p. 25-27.

[95] Declaration by Daniel Johnson, meeting of the Tax System Committee, October 26, 1966, p. 63.

[96] Statement by Daniel Johnson, Federal-Provincial Conference on Housing and Urban Development, Ottawa, December 11-12, 1967, p. 53, Privy Council Office, Ottawa, 1968.

[97] Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 81.

[98] Working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968.

[99] See also Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 79 and 80.

vi) The provinces should be the owners of the public domain, which should extend to the continental shelf. They should have unlimited expropriation powers, except over federal property.

85. There are two main reasons why the Québec government is so insistent on regaining full control over social security: first, because the presence of two governments in this field prevents effective social security planning, allows for contradictions between various programs and leads to administrative duplication and waste; second, because social security measures affect the nation's vitality as a society.[100]

Control over expenses in Québec's sectors of jurisdiction: See paragraph 99.

c) Unilateral powers

86. The federal Parliament's reserve and disallowance powers and the declaratory power should be eliminated. The residuary power should be transferred to the provinces.[101]

87. The federal spending power should be limited to federal matters alone. However, unconditional grants could be paid to provinces either according to a general equalization formula or to stabilize their revenue.[102]

Shared-cost programs: See paragraphs 99-101.

••• Individual and language rights

88. The new Constitution must include a Charter of human rights applying to the constitutional powers of the central government. For its part, the Québec government intends to add a Charter of human rights to the Constitution of Québec which would apply to areas of Québec jurisdiction.[103]

89. In a country like ours, it is fundamental that the Constitution recognize the collective rights of the two cultural communities [...]. We do not want to impose our language indiscriminately on all Canadians, but we do want French Canadians, wherever they are in sufficient numbers, to be able to serve their country and be served in their language, as full-fledged citizens.[104]

90. A distinction must be made between individual rights and collective rights. The former are within provincial jurisdiction (civil rights). That is why Québec intends to incorporate a Charter of human rights into its own Constitution.[105]

91. As for collective rights (rights of language minorities), Québec agrees that they be protected in the Constitution. But it considers it is even more pressing and would be more effective to embody them in federal and provincial institutions.[106]

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[100] See also Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 76 (quotation).

[101] Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 45.

[102] Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 75 and seq. See also working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968.

[103] Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 44 (quotation).

[104] Opening statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 22 (quotation).

[105] Opening statement by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 61 (See part 2 of this document).

[106] *Ibid.*, p. 61.

92. In a unitary country with a homogeneous society, declarations of rights can be seen as summations of the moral philosophy accepted by the entire population, and the rights of citizens can be derived therefrom. The result is to entrench in the Constitution a certain homogeneity of ethical concepts whose application is the responsibility of the courts. We feel that in a federal system and particularly in the case of Canada, it would be a serious political mistake to proceed in that way. Québec's civil law tradition and the way in which it recognizes and protects fundamental rights are in fact significantly different from the procedure in common law courts. If therefore we contemplate a declaration of rights that is so basic that the highest constitutional court in Canada must make these rights explicit, we are obliged to demand that the formation of a constitutional court be examined first.[107]

93. The issue of fundamental rights cannot be resolved without agreement on certain basic reforms, in particular the creation of a genuine constitutional court.[108]

••• Institutions

94. The Constitution should provide for the establishment of a constitutional court of which at least 2/3 of whose judges would be appointed by the provinces.[109] The composition of this court should reflect the federal character of common institutions and the Canadian cultural duality.[110]

Constitutional court and charter of human rights: See paragraphs 92-93.

95. The provinces should be responsible for the establishment of high courts and the appointment of their judges, both for the administration of federal and provincial laws.[111]

96. Québec requests the institutionalization of federal-provincial and interprovincial conferences.[112]

Intergovernmental machinery: See also paragraph 75.

97. It would be useful to examine the possibility of transforming the existing Senate into a genuine federal House, with a bi-national character.[113]

98. The composition of the Bureau of Broadcast Governors and the Canadian Broadcasting Corporation should better reflect the bicultural reality of the country It is therefore important that Québec itself appoint a proportion, to be determined, of the members of the boards of directors of these agencies.[114]

Institutional reform: See also paragraph 75.

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[107] Initial reactions of the Québec government to the White Paper tabled in the House of Commons by Pierre Elliott Trudeau, federal Minister of Justice, February 1, 1968, p. 4 (quotation).

[108] Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 93 and seq., especially p. 98.

[109] Working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968.

[110] Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 50.

[111] Working paper submitted by Québec to the Standing Committee of Officials on the Constitutional Conference, July 17, 1968.

[112] Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p. 48 (quotation).

[113] *Ibid.*, p. 50 (quotation).

[114] Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p. 81.

••• Intergovernmental policy

Financial aspects of federalism

99. Québec should have sole responsibility within its borders for public spending on all forms of education, old age security, family allowances, health, manpower training and placement, regional development and, in particular, assistance programs for municipalities, research and the fine arts as well as culture and, in general, any other socio-cultural service within the jurisdiction of Québec. Existing federal programs in these areas would be assumed by Québec, which, if necessary, would maintain their transferable nature.[115]

100. Québec has no intention of renewing the joint programs from which it has withdrawn. Nor does it plan to enter into new joint programs dealing with areas of exclusive provincial jurisdiction. Instead, it will demand unconditional financial compensation.[116]

101. Joint programs are an obstacle to the free development of Québec society. They impose priorities that could conflict with those it would otherwise establish, not to mention that they reduce its real budgetary independence [...]. For a nation like ours, joint programs freeze our fiscal resources and deprive Québec of total control over areas of activity that by law lie within its jurisdiction. In general, then, there is an incompatibility between the system of joint programs and the French Canadian nation's efforts to achieve its essential objectives.[117]

102. Québec demands a net increase in resources that enable it to carry out its constitutional responsibilities.[118] Québec demands 100% use of the three major direct taxes: personal income taxes, corporate income taxes and succession duties. This demand is based on a transfer of tax fields from the federal government to the provinces and on the repatriation of federal programs in areas of provincial jurisdiction, in return for tax compensation.[119]

103. Any major rearrangement of the structure of shared taxes must result from the concerted action of all governments.[120]

New distribution of resources: See paragraph 75.

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[115] Statement by Daniel Johnson, fourth meeting of the Federal-Provincial Tax System Committee, Ottawa, September 14-15, 1966, in *Le gouvernement du Québec et la Constitution*, 1968, p.7. Preliminary statement by Daniel Johnson, Interprovincial Conference on the "Confederation of Tomorrow," Toronto, November 27-30, 1967, in *Le gouvernement du Québec et la Constitution*, 1968, p.46.

[116] Statement by Daniel Johnson, fourth meeting of the Federal-Provincial Tax System Committee, Ottawa, September 14-15, 1966, in *Le gouvernement du Québec et la Constitution.*, 1968, p.5-6.

[117] *Ibid.*, p.5 (quotation).

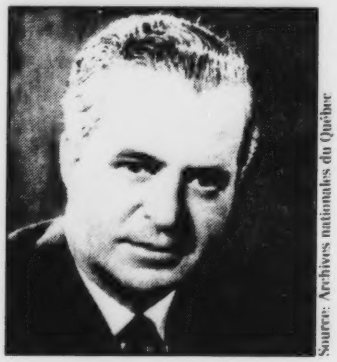
[118] *Ibid.*, p.7-8.

[119] *Ibid.*, p.8.

[120] Brief submitted by Daniel Johnson, Federal-Provincial Conference, Ottawa, February 5-7, 1968, in *Le gouvernement du Québec et la Constitution*, 1968, p.82.

GOVERNMENT OF JEAN-JACQUES BERTRAND

(OCTOBER 2, 1968 TO APRIL 29, 1970)



Source: Archives nationales du Québec

••• Status of Québec

104.What is important for French Canadians in Québec is not to be able to speak their language anywhere in Canada, but to be able, collectively, to live in French, to build a society in their image. That is possible only if the Québec government has powers in proportion to the tasks the population expects it to carry out.[121]

105.It is essential that French Canada, of which Québec is the cornerstone, have the conviction that it will find all the elements necessary for its development within the Canadian federation.[122]

••• Constitutional reform process

106.What we must look for is the constitutional system that can reconcile the full development of both cultural communities in Canada with the imperatives of economic solidarity.[123]

107.A constitutional declaration of human rights must be passed at the same time as the new Constitution, but not before. The most important constitutional problem is the distribution of powers between the two orders of government.[124]

••• Distribution of powers

a) General principles

108.Québec believes freedom of choice will always be necessary in some areas, not only to ensure that Québec has all the autonomy it needs, but also to enable the other provinces to confer on the central government, or to carry out jointly with it, the tasks they do not want to perform solely on their own initiative.[125]

109.Québec demands that the future Canadian constitution be adaptable to the needs of each province. While Québec seeks greater decentralization of power, those provinces that want to should have the freedom to delegate some of their powers to the federal government. That way, Québec could exercise the powers it feels it needs, without preventing a greater degree of centralization or federal intervention elsewhere.[126]

110.The distribution of powers between the two orders of government must depend not on the good will of the central authority, but on a written constitution that is recognized and respected by all as the fundamental law of the country.[127]

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[121] Opening statement by Jean-Jacques Bertrand, Constitutional Conference, second meeting, Ottawa, February 10-12, 1969, p. 32, Queen's Printer, 1969 (See part 2 of this document).

[122] *Ibid.*, p. 35.

[123] *Ibid.*, p. 32.

[124] Statement by Jean-Jacques Bertrand, Constitutional Conference, second meeting, Ottawa, February 10-12, 1969, Queen's Printer, 1969, p. 314-315.

[125] Opening statement by Jean-Jacques Bertrand, Constitutional conference, second meeting, Ottawa, February 10-12, 1969, p. 36, Queen's Printer, 1969 (See part 2 of this document).

[126] Statement by Jean-Jacques Bertrand, Constitutional Conference, third meeting, Ottawa, December 8-10, 1969, p. 10-11, Queen's Printer, 1970.

111. The country must adopt a taxation and financial structure that, after a net transfer of resources to the provinces, will enable each of the two sectors of government to satisfy its obligations as effectively as possible.[128]

Charter of human rights and distribution of powers:* *See paragraphs 107, 119, 120.

b) Sectorial jurisdictions

112. Québec endorses the constitutional proposals submitted July 17, 1968 to the Standing Committee of Officials on the Constitutional Conferences, though they do not express the Québec government's final position.[129]

113. Québec considers it has jurisdiction in the following areas: educational radio and television, cultural affairs, urban affairs, underwater mining resources, the securities industry, higher education, university research, water, air and soil pollution, road transportation, foreign relations in education or other sectors of provincial jurisdiction, social development, succession duties[130] and health insurance.[131]

114. Marriage, divorce and, in that case, the establishment of family courts should be within Québec's jurisdiction.[132]

115. Québec proposes to unify and assume control of the federal and Québec family allowance systems.[133] In addition, Québec expresses its firm intention to develop its own family policy.[134]

116. Social security, including social allowances, old age pensions, family allowances, health and hospitals, manpower training and placement should be exclusively under provincial jurisdiction.[135] The responsibility for social security policy and development cannot be divided. This responsibility, both for cultural and efficiency reasons, must be assumed solely by the Québec government.[136]

117. Québec can accept neither that the federal government act unilaterally to manage or control pollution in provincial bodies of water, nor that its joint action with the provinces be based on the national interest.[137]

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[127] Opening statement by Jean-Jacques Bertrand, Constitutional Conference, second meeting, Ottawa, February 10-12, 1969, p. 32, Queen's Printer, 1969 (See part 2 of this document).

[128] *Ibid.*, p. 18.

[129] *Ibid.*, p. 29.

[130] *Ibid.*, p. 33-34.

[131] Government of Québec, statement by Jean-Jacques Bertrand, Federal-Provincial Conference of Finance Ministers, Ottawa, November 4-5, 1968, p. 16.

[132] Statement by Jean-Jacques Bertrand, Constitutional Conference, third meeting, Ottawa, December 8-10, 1969, p. 11.

[133] Brief by Jean-Paul Cloutier, Minister of the Family and Social Welfare, Federal-Provincial Conference, Ottawa, January 16-17, 1969.

[134] Jean-Paul Cloutier, *Orientation pour une nouvelle politique des allocations familiales du Québec*, Ministère de la Famille et du Bien-être social, Québec, November 1969.

[135] Statement by Jean-Jacques Bertrand, Constitutional Conference, third meeting, Ottawa, December 8-10, 1969, p. 11.

[136] *Ibid.*, p. 10 and 21.

[137] Government of Québec, statement by Jean-Jacques Bertrand, Federal-Provincial Conference, Ottawa, February 16-17, 1970, p. 7 (quotation).

Individual and language rights

118. Canada's constitutional problem cannot simply be reduced to a question of individual or language rights. The important point, for French Canadians in Québec, is not to be able, individually, to speak their language even in regions of the country where there is little chance of its being understood; rather, it is to be able to collectively live and work in French, to build a society in their own image.[138]

119. The creation of a charter of provincial rights is just as important to Québec as the creation of a charter of human rights.[139]

120. It is important to ensure that the constitutional recognition of human rights not change the distribution of powers between governments. We would not accept that Parliament legislate in areas of provincial jurisdiction on the pretext that it is implementing the declaration of human rights.[140]

Charter of human rights and Québec's priority regarding the distribution of powers: See paragraph 107.

Institutions

121. The federated states, i.e. the provinces, should be responsible for the establishment of higher courts and provincial courts of appeal and for the appointment of their judges, both for the administration of federal and provincial laws. However, the central legislature should maintain its existing power to establish federal courts for the administration of its own laws.[141]

122. The Constitution must provide for the establishment of a constitutional court and determine its composition and jurisdiction. At least two thirds of the judges of this court should be appointed by provincial governments.[142]

Intergovernmental policy

a) Conducting intergovernmental relations

123. A judicious management of the economy requires much closer cooperation between governments in certain areas of strategic importance.[143]

b) Financial aspects of federalism

124. Governments responsible for certain well-defined fields of activity must also have access to resources they can allocate depending on how they intend to carry out these responsibilities. Conditional transfers, grants, and subsidies are therefore completely unacceptable.[144]

Financial autonomy of the provinces: See also paragraph 111.

125. Québec considers there is an urgent need for the federal government to regionalize its fiscal policy to take into account different economic conditions in various parts of the country.[145]

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[138] Opening statement by Jean-Jacques Bertrand, Constitutional Conference, second meeting, Ottawa, February 10-12, 1969, p. 32, Queen's Printer, 1969 (See part 2 of this document).

[139] *Ibid.*, p. 35.

[140] Statement by Jean-Jacques Bertrand, Constitutional Conference, second meeting, Ottawa, February 10-12, 1969, p. 314 (quotation), Queen's Printer, 1969.

[141] *Ibid.*, p. 414-415 (quotation).

[142] *Ibid.*, p. 413.

[143] Government of Québec, statement by Jean-Jacques Bertrand, Federal-Provincial Conference of Finance Ministers, Ottawa, November 4-5, 1968, p. 18.

[144] *Ibid.*, p. 18.

[145] Government of Québec, statement by Jean-Jacques Bertrand, Federal-Provincial Conference, Ottawa, February 16-17, 1970, p. 4.

FIRST GOVERNMENT OF ROBERT BOURASSA

(MAY 12, 1970 TO NOVEMBER 15, 1976)

Source: Le Soleil

••• Status of Québec

126. The precise definition of Québec society within the Canadian federation remains a fundamental problem for Québec.[146]

127. The Québec government believes a genuine affirmation of Quebecers' cultural identity is possible within the federal system. Cultural affirmation means control by Québec, and the financial means and constitutional powers with which it can promote the cultural development of its population.[147]

128. Québec's constitutional policy is premised on the need and desire of Quebecers, first, to head a government that will enable them to develop their own cultural personality and, second, to participate in a prosperous bicultural federation which respects the distinct character of Québec society.[148]

129. Québec will seek to obtain recognition from the rest of Canada of its unique responsibility for the survival and development of French culture. Québec cannot yield this responsibility to others and must obtain the necessary constitutional guarantees to ensure this.[149] The constitutional review must recognize the cultural aspirations of Quebecers as expressed by all governments of Québec with the full support of the people of Québec.[150]

130. A new Canadian constitution would be unacceptable if it failed to clearly and concretely recognize the fact that Quebecers are different and form a distinct society that vigorously wants to maintain its social and cultural identity.[151]

Cultural affirmation of Québec:
See paragraphs 134 and 166.

Cultural security and patriation of the Constitution:
See paragraph 135.

••• Constitutional reform process

131. A prerequisite to constitutional reform is improved fiscal and economic relations between governments, with a view to implementing a new economic federalism.[152]

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[146] Government of Québec, statement by Robert Bourassa, Québec National Assembly, Standing Commission on the Constitution (Victoria Conference), *Journal des débats*, May 18, 1971, p. B-1274.

[147] Inaugural Speech to the second session of the 29th legislature, Québec National Assembly, *Journal des débats*, February 23, 1971, p. 7.

[148] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 6-7.

[149] Inaugural Speech to the first session of the 30th legislature, Québec National Assembly, *Journal des débats*, November 22, 1973, p. 22-23.

[150] Inaugural Speech to the third session of the 30th legislature, Québec National Assembly, *Journal des débats*, March 18, 1975, p. 1.

[151] Statement by Claude Castonguay, Minister of Social Affairs, before members of the Québec Club Richelieu, Québec, January 18, 1971.

[152] Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of Ministers of Finance, Winnipeg, June 5-6, 1970, p. 4.

132. The Québec government has always had a dual objective in terms of constitutional reform, i.e. decentralized federalism and the promotion of Québec's distinct personality.[153]

133. Québec cannot accept the proposed Victoria Constitutional Charter. This decision stems from the necessity to agree, as much as possible, on clear and precise constitutional texts, to avoid shifting to the judiciary a responsibility that belongs primarily in the political sector. As such, the texts dealing with income security still contain an uncertainty that squares poorly with the objectives inherent in any notion of constitutional review.[154]

134. Federalism represents for Quebecers the best means for attaining their economic, social and cultural objectives [...]. In keeping with Quebecers' clearly expressed desire in this sense, the government will devote its efforts to reinforcing Canadian federalism. As such, it feels that federalism must be decentralized in order to reflect the diversity of the regions of our country. This federalism must also guarantee provinces the freedom of action they need for fully assuming their responsibilities with regard to their citizens; this federalism must also allow the government of Québec to ensure the cultural future of the majority of its population.[155]

135. The patriation of the Canadian Constitution and the adoption of an amending formula could provide an opportunity for the recognition of Quebecers' cultural rights. In this regard, Québec has a duty to demand clear constitutional guarantees in sectors naturally linked to cultural security, of which communications and immigration have special significance. Quebecers will only agree to the patriation of the Constitution if that document provides them with guarantees as to the future of French culture.[156]

136. Québec proposes that provincial ministers meet at least once a year to review legal decisions of a constitutional nature, other questions related to the Constitution and, if necessary, to finalize any proposed amendment to the Constitution.[157]

••• Constitutional amending procedure

137. Québec proposes that the creation of new provinces be subject to the agreement of the existing provinces, according to the original *veto* formula of the Victoria Charter.[158]

••• Distribution of powers

a) General principles

138. In concrete terms, Québec's desire for decentralization means obtaining financial resources appropriate to provincial responsibilities, a clarification of these responsibilities in sectors such as regional development and management, and additional powers in the cultural and social fields.[159]

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[153] Statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 17.

[154] Statement by Robert Bourassa, Québec National Assembly, *Journal des débats*, June 23, 1971, p. 2738 (See part 2 of this document); see also the communiqué by Robert Bourassa, June 23, 1971 (Part 3: document no. 9).

[155] *Ibid.* (quotation) [Translation].

[156] Speech by Robert Bourassa, Mont-Gabriel Symposium, August 24, 1975. See also the letter from Peter Lougheed, Premier of Alberta, on behalf of all provincial First Ministers, to Pierre Elliott Trudeau, Prime Minister of Canada, October 14, 1976.

[157] Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 11.

[158] *Ibid.*, Schedule 12.

[159] Opening statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 16; see also the Inaugural Speech to the third session of the 30th legislature, Québec National Assembly, *Journal des débats*, March 18, 1975, p. 1.

139. If Canada's bicultural character is to be preserved, and its preservation and development is one of Canada's basic objectives, then Québec must be in a position to guarantee the conditions for the development of its French reality. It will succeed by making maximum use of the powers it already holds, and by exercising certain additional powers that will increase the effectiveness and influence of its linguistic and cultural character.[160]

140. As far as maintaining and developing Québec's identity is concerned, we will base our position on an objective assessment indicating which order of government best serves the public.[161]

141. Québec has always promoted decentralized federalism, which alone is truly adapted to the variety of economic, social and cultural needs of Canadians in every region of the country.[162]

142. Québec would favour the inclusion of a provision in the Constitution enabling delegation of legislative powers between the two orders of government. Legislative delegation would add more flexibility to an often overly rigid distribution of powers. It would correct legal interpretations that failed to respect the spirit of the Constitution, and make it possible to develop regionally based programs. In addition, delegation of powers establishes various degrees of centralization or of decentralization in the relations between the central government and the provinces and therefore is consistent with the flexibility of federalism.[163]

143. The Québec government is in the best position to understand and define the needs of the population of Québec, especially with regard to education, culture, land use planning and social policy. This principle is valid for the entire constitutional issue.[164]

Decentralization and constitutional reform:
See also paragraphs 132 and 134.

Charter of human rights and distribution of powers:
See paragraphs 160 and 161.

b) Sectorial jurisdictions

144. Québec claims priority of responsibility for the design of health, social services, income security and manpower policies, while recognizing the essential role of the federal government in securing an acceptable standard of living for all Canadians. Nonetheless, the administration of social policy programs would be shared, however, according to whether the type of program defined by each province lends itself better to a centralized administration, or demands a decentralized management.[165] The important point in the case of programs administered by the federal government is that they be administered under an income security policy established by the provinces and that a satisfactory link be maintained with them.[166]

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[160] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 6 (quotation).

[161] *Ibid.*, p. 4.

[162] Statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 15.

[163] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 10.

[164] Speech by Claude Castonguay, Minister of Social Affairs of Québec, Annual Meeting of the Society of Actuaries, Toronto, November 1971.

[165] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 10-11. See also statement by Robert Bourassa, Victoria Constitutional Conference, June 14, 1971, p. 17.

[166] Statement by Claude Castonguay, Minister of Social Affairs of Québec, Federal-Provincial Conference of Ministers of Social Welfare, Ottawa, January 1971.

Social policies: See also paragraphs 133, 138 and 143.

145.The organization and distribution of health care and social services lies clearly within the exclusive jurisdiction of the provinces.[167]

146.Housing, recreation, local public services facilities, urban development and land use planning are within the provinces' jurisdiction exclusively. The federal government's role in these areas should be limited to financing.[168]

147.Québec wants take an active part in developing and defining government communications policies.[169] Furthermore, Québec should be able to control the development of communications within its borders, establish the general principles that will promote the social, cultural and economic development of the community to be served, regulate the cable and broadcasting sectors, as well as communications companies (programming; rates, except for radio and television) and participate on the boards of directors of federal communications agencies.[170] From a constitutional standpoint, Québec proposes that the provinces acquire preponderant legislative jurisdiction over communications (communications networks within the province).[171]

Communications: See also paragraph 135.

148.Québec demands the development of mechanisms which ensure that the contribution of Canada and Québec to international development will be the result of common efforts.[172]

149.The tax on companies that develop natural resources should be within the exclusive jurisdiction of the provinces. Québec proposes that succession duties and gift taxes also come under exclusive provincial control and agrees to the principle of open access to other tax sources for both levels of government.[173]

150.As far as energy is concerned, neither the federal government's unilateral action nor the uncoordinated actions of provincial governments will enable us to achieve the goals that must be attained. Only joint cooperative efforts by both levels of government and by all governments will succeed.[174]

151.As far as immigration is concerned, provincial participation would be to the federal government's benefit, since they are in the best position to know their manpower requirements and the type of immigrants they would prefer to receive.[175]

152.Québec demands, first, that a Canadian immigration policy be voluntary and involve the active participation of the provinces, in accordance with section 95 of the Constitution. Second, the distribution of these joint powers must be clear: Ottawa will have exclusive powers over the issuing of visas[176], but the provinces will acquire preponderant legislative jurisdiction in terms of settlement, integration and placement of immigrants. In addition, the provinces must participate in the recruiting and selection of foreign nationals who want to immigrate within their borders and must conclude agreements to that effect with the government of Canada.[177]

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[167] Statement by Claude Castonguay, Minister of Health, Federal-Provincial Conference of Ministers of Health, Ottawa, December 9-11, 1970, Schedule 3, p. 5 (quotation).

[168] Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 49.

[169] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 13.

[170] Jean-Paul L'Allier, Minister of Communications, *Le Québec maître d'oeuvre de la politique des communications sur son territoire*, Éditeur officiel du Québec, 1973, p. 89-103.

[171] Joint proposal by Québec and Saskatchewan, summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 8. See also statement by Jean-Paul L'Allier, Minister of Communications, Federal-Provincial Conference on Communications, Ottawa, November 29-30, 1973.

[172] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 13.

[173] Notes for Robert Bourassa on the tax reform proposal, Federal-Provincial Committee of Ministers of Finance and Provincial Treasurers, Winnipeg, June 5-6, 1970, p. 23 and government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 16-17.

[174] Declaration by Robert Bourassa, Federal-Provincial Conference of the First Ministers on Energy, Ottawa, June 22-23, 1974.

[175] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 13.

Immigration: See also paragraph 135.

153. The elements of the Constitution affecting the administration of justice should be revised to strike a balance between federal and provincial responsibilities.[178] In addition, the respective responsibilities of the federal government and the provinces over custody of inmates should be redefined[179] and the provinces should have jurisdiction over narcotics prosecutions, such as those relating to the Criminal Code.[180]

154. Québec proposes that the legislature of each province have exclusive jurisdiction over arts, letters and cultural heritage within the province.[181] The Québec government must have sole jurisdiction over Québec's heritage. Therefore, there is no question of any element of Québec's heritage being included as part of some Canadian heritage determined by the federal government.[182]

Culture: See also paragraph 138.

c) Unilateral powers

155. Québec proposes that the federal government not exercise its power to pass laws regarding peace, order and good government in areas of exclusive provincial jurisdiction except in the case of a national emergency.[183]

156. The federal government must not use its declaratory power unless the province concerned gives its assent.[184]

157. Though ideally the federal power to spend in areas of provincial jurisdiction should not exist, Québec is prepared to agree to it provided any province that does not participate in a joint program be entitled to financial compensation that would guarantee its freedom to abstain.[185]

Shared-cost programs: See also paragraphs 171-173.

158. Québec proposes that the federal spending power in areas of provincial jurisdiction be subject to the prior

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[176] Jean Bienvenue, Minister of Immigration, *La position du gouvernement du Québec à la suite de la publication du Livre vert fédéral sur la politique canadienne d'immigration*, April 1975, document tabled in the Québec National Assembly on May 23, 1975.

[177] Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 7.

[178] White Paper, *La justice contemporaine*, presented by Jérôme Choquette, Minister of Justice, April 1975, p. 32.

[179] Statement by the Minister of Justice, Federal-Provincial Correctional Sector Conference, Victoria, May 22-23, 1975.

[180] Press release, Federal-Provincial Conference of Attorneys General, Vancouver, June 17-18, 1976.

[181] Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 7.

[182] Speech by Jean-Paul L'Allier, Minister of Cultural Affairs, Heritage Canada annual banquet, September 17, 1976.

[183] Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 5.

[184] *Ibid.*, Schedule 6.

[185] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 16.

agreement of the majority of governments (according to the Victoria Charter formula), and that each province have the authority to decide how amounts allocated for use within its borders are to be applied to implement the programs.[186]

159. Québec recommends that the residuary power be transferred to the provinces.[187]

••• Individual and language rights

160. The Québec government favours the adoption of a Constitutional Charter of human rights. However, this charter should not prevent the adoption of complementary charters at the federal or provincial level, nor change the distribution of powers.[188]

161. Considering that in the majority of cases, protection of human rights comes under provincial jurisdiction, Québec feels it is essential that the respective fields of application of federal and provincial legislation be clearly defined.[189]

162. Language legislation constitutes recognition that in areas that embody Québec's distinct characteristics, legislation passed for the country as a whole is not necessarily appropriate for Québec society. With Bill 22, the government acknowledges that only Québec can legislate in this sector.[190]

••• Institutions

163. Québec requests the institutionalization of an annual First Ministers Conference on the economy to be used as a special vehicle for coordinating and planning federal and provincial economic policies.[191]

164. Québec believes that the creation of a constitutional court representative of the federation is essential to maintaining a new constitutional balance.[192] Moreover, the provinces should be able to submit names of candidates for appointment to the Supreme Court and refer legal questions to the Supreme Court and that their approval be required for changing the jurisdiction of the Supreme Court.[193]

••• Intergovernmental policy

a) Conducting intergovernmental relations

165. The Québec government must be involved in the central government's decision-making process on questions with a significant influence on Québec's economic, social and cultural development.[194]

166. The government's main priorities in terms of federal-provincial relations are: 1) the issue of financing, with a view to achieving a distribution of resources

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[186] Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 3.

[187] *Ibid.*, Schedule 4.

[188] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 19.

[189] Declaration by François Cloutier, Minister of Intergovernmental Affairs, Federal-Provincial Conference on Human Rights, Ottawa, December 11-12, 1975, p. 3.

[190] Speech by Jean-Paul L'Allier during the debate on the second reading of Bill 22, Minister of Communications, Québec National Assembly, *Journal des débats*, July 13, 1974, p. 1789-1790.

[191] Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 10-11.

[192] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 20.

[193] Summary account of proceedings, Interprovincial Meeting of Ministers of Intergovernmental Affairs and Attorneys General, Edmonton, August 1976, Schedule 14.

[194] Government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 5. See also statement by Robert Bourassa, Québec National Assembly, Standing Commission on the Constitution (Victoria Conference), *Journal des débats*, May 18, 1971, p. B-1273.

that is more consistent with the constitutional responsibilities of the federal and provincial governments; 2) economic development, specifically concerning regional disparities and unemployment; 3) social development, especially income security problems; 4) Québec's cultural affirmation.[195]

b) Financial aspects of federalism

167. Each order of government must have access to sufficient revenue to cover the cost of programs under its jurisdiction.[196]

Financial autonomy: See also paragraphs 138 and 166.

168. Regarding fiscal and economic issues, coordination of federal and provincial initiatives needs to be improved both to enable Canadian federalism to carry out its function of redistributing wealth across the country and to give rise to genuine cooperative efforts.[197]

169. Redistribution of wealth among provinces is not limited to equalization payments. The regional effects of the central government's total revenue and spending must also be taken into account, so that the shortfall in federal spending in Québec does not cancel the redistributive effect of equalization.[198]

170. Québec proposes the creation of an economic assistance fund that would play a short-term compensating role by correcting the regional impact of an unfavourable economic situation or of federal policies that exacerbate the unemployment rate in some provinces. Financed from certain federal taxes, this fund would make both unconditional payments and loans at preferred interest rates.[199]

171. Québec announces that it wishes to end the provisional arrangements concerning hospital insurance and health insurance programs and replace them with a definitive opting-out formula. This formula would involve unconditional payments.[200]

172. With respect to fiscal compensation for opting-out of shared-cost programs, Québec prefers to collect its own taxes rather than receive financial compensation.[201]

Shared-cost programs: See also paragraph 157.

173. Québec submits three proposals for the fiscal arrangements:

a) federal withdrawal from three joint programs (health insurance, hospital insurance, post-secondary education), in exchange for a satisfactory unconditional transfer to the provinces;

b) elimination of the tax receipts guarantee program and integration of the amounts involved in other transfers to the provinces including a substantial portion in equalization;

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[195] Inaugural Speech, Québec National Assembly, Journal des débats, March 15, 1973, p. 1 (quotation).

[196] Statement by Robert Bourassa, Federal-Provincial Conference of Ministers of Finance, Winnipeg, June 5-6, 1970, p. 26 and government of Québec, statement by Robert Bourassa, Constitutional Conference, Ottawa, September 14-15, 1970, p. 16-17.

[197] Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 2, 10 and 11.

[198] Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of Finance Ministers, Winnipeg, June 5-6, 1970, p. 38-40.

[199] *Ibid.*, p. 31-33 and statement by Robert Bourassa, First Ministers Conference, Ottawa, November 15-17, 1971, p. 22.

[200] Government of Québec, statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, November 15-17, 1971, p. 31.

[201] *Ibid.*, p. 40.

c) an equalization formula based on a global indicator of wealth that would equalize all or a fixed proportion of provincial, municipal and school revenues at a level above the national average.[202]

Economic federalism and constitutional reform: See paragraph 131.

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[202] Opening statement by Robert Bourassa, Federal-Provincial Conference of the First Ministers, Ottawa, June 15-16, 1976.

GOVERNMENT OF RENÉ LÉVESQUE

(PRE-REFERENDUM PERIOD,
NOVEMBER 25, 1976 TO MAY 20, 1980)

Daniel Lessard

Source: Archives nationales du Québec

••• Status of Québec

174. The Sovereignty-Association Project[203]

The government of René Lévesque was elected in November 1976. Its program consisted in holding a referendum in Québec to address the issue of the Sovereignty-Association project with Canada.

In 1979, the government published a white paper[204] explaining its project that was submitted by referendum on May 20, 1980, a first exercise in popular consultation under the aegis of the Québec Referendum Act.

The Sovereignty-Association project sought Québec accession to political sovereignty within the framework of a new agreement for economic association with Canada. This meant establishing a new relation between Canada and Québec where both parties would be international entities and relations between them would no longer be governed by a constitution, but rather by a treaty of association. However, they would continue to have a single tariff and a single currency. The nature of the proposed association would be that of a monetary union.

The project specified several of the major characteristics of Québec sovereignty: adoption of all laws and taxes by the Québec National Assembly; the territorial integrity of Québec; creation of Québec citizenship; preservation of rights legally vesting in the anglophone minority; the Amerindian and Inuit communities would have institutions on their lands designed to protect the integrity of their societies and enable their free development; continuity in treaty-making affairs; participation and admission to certain international organizations; Québec courts alone would be empowered to administer justice in Québec.

As for the treaty on community association planned by the government of Québec, its purpose would be to preserve the current economic space. It would have defined shared areas of activity (free circulation of goods and individuals, monetary union) and those subject to the harmonization of national policies and legislation (railway, maritime and air transport, labour market regulations and right of establishment, cyclical policies, overall equilibrium of the balance of payments, monetary stability and defence).

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[203] Paragraph 174 is a synthesis of the government project.

[204] Government of Québec, *Québec-Canada: A New Deal. The Québec Government Proposal for a New Partnership Between Equals: Sovereignty-Association*. An extract from this white paper is reproduced in Part 3: see document no. 11. On the government project, see also the statement by René Lévesque regarding the referendum question before the Québec National Assembly, December 20, 1979 (See part 2 of this document).

In addition, the creation of certain common Québec-Canada institutions was considered, institutions that would be administered under the treaty. In this respect, the project included the creation of a Community Council, a Commission of Experts, a Court of Justice and a Monetary Authority (a parliamentary assembly could have also been examined without per se being included in the project). The operations of these institutions were to recognize the principle of legal equality among partners, which in some cases would be a right of *veto* for Québec and, in other cases, a deliberative voting power proportionate to its demographic and economic weight.

The mandate for negotiating Sovereignty-Association that the government asked of the population during the May 20, 1980 referendum was rejected, since the No vote was confirmed by 59.56% of the electors and the Yes vote received 40.44%.[205]

175. That the Members of the [National] Assembly do reiterate firmly and explicitly their belief in the principle that Quebecers only have the ability to decide on their constitutional future, in accordance with the rules and provisions that the Assembly will see fit to adopt.[206]

176. A lasting solution to the constitutional issue presupposes recognition of the Québec-Canada duality.[207]

••• Constitutional reform process

177. Québec will never agree, under the existing system, to the patriation of the Constitution and to an amending formula as long as the whole issue of the distribution of powers has not been settled and Québec has not been guaranteed all the powers it needs for its development.[208]

178. Québec is of the view that reform of the division of powers must precede that of central institutions, including the Senate.[209]

••• Distribution of powers

a) General principles

179. The federal government should eliminate certain activities in areas where the provinces have more or less similar programs that match their needs more closely. It should also abstain from carrying out tasks which the provincial governments can do more economically and effectively.[210]

180. To resolve economic problems, the federal government must comply with agreements already signed instead of modifying them unilaterally, and, to prevent economic problems from being lost in jurisdictional squabbles, it must respect the jurisdiction of provincial governments.[211]

181. The Canadian economy is not a large homogeneous whole that can be suc-

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[205] Directeur général des élections du Québec, *Rapport des résultats officiels du scrutin, Référendum du 20 mai 1980*, 1980, p. 19 (an extract of the Official Report and the text of the referendum question may be found in part 3: document no. 12).

[206] Resolution of the Québec National Assembly dated May 4, 1978 (quotation; see part 3: document no. 10).

[207] Gouvernement du Québec, press release, Federal-Provincial Conference of the First Ministers, Ottawa, October 30 and November 1, 1978.

[208] *Ibid.* See also *Dossier sur les discussions constitutionnelles 1978-1979*, presented to members of the Commission parlementaire de la Présidence du Conseil et de la Constitution by Claude Morin, Minister of Intergovernmental Affairs and Marc-André Bédard, Minister of Justice, January 12, 1979: note on the patriation and amendment of the Constitution, p. 30.

[209] *Dossier sur les discussions constitutionnelles 1978-1979*, note on the Senate, p. 27.

[210] Statement by René Lévesque, Federal-Provincial Conference of the First Ministers, Ottawa, February 13-15, 1978, Canadian Intergovernmental Conferences Secretariat (CICS), doc. 800-7/056, p. 7.

[211] *Ibid.*, p. 7, and declaration by René Lévesque at the end of the conference, First Ministers Conference on the Economy, Ottawa, November 29, 1978, CICS, doc. 800-9/086.

cessfully controlled and manipulated using standard policies and formulae. Provincial governments are in the best position to act, since they know their own economic context and its component factors, i.e. resources, industrial structure, domestic market, social climate, etc.[212]

Reform of the distribution of powers as Québec's priority: See paragraphs 177-178.

b) Sectorial jurisdictions

182. Québec proposes a territorial partition of the Gulf of St. Lawrence, by means of lines equidistant from the shores of the Gulf, according to an agreement reached in 1964 between Québec and the Atlantic provinces.[213]

183. Concerning ore and other resources located outside the immediate territory of the provinces in the 200-mile economic zone, Québec advocates concurrent jurisdiction with provincial legislation taking precedence. The exception would be the distribution of mining duties among provinces, where federal authority could take precedence until the provinces concerned reach an agreement on the matter.[214]

184. The provinces should have exclusive jurisdiction over fisheries within their territory. Outside the Gulf of St. Lawrence, in the 200-mile economic zone, Québec would be prepared for concurrent jurisdiction. With the exception of distribution of quotas where federal authority would take precedence, provincial legislation should have priority.[215]

185. The Québec government should have primary responsibility for strategies to modernize and convert certain industries in Québec, though it agrees with the need for cooperation with the federal government in this matter. Québec has frequently asserted that it considers itself in the best position to provide effective assistance to small and medium-sized businesses.[216]

186. Québec considers that it is primarily responsible for defining its industrial strategy, while acknowledging the need for cooperation with the federal government in the matter.[217]

187. The rules concerning the interventions of both governments in the area of scientific research must be redefined. The aim should be a fair distribution of resources, recognition of Québec's needs and priorities, respect for Québec's development policies, and concerted action and coordinated initiatives by those involved. The federal government must not intervene in the area of scientific research in Québec without the prior agreement of the Québec government, which has primary responsibility for science policy.[218]

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[212] Statement by René Lévesque, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-9/040, p. 6.

[213] *Dossier sur les discussions constitutionnelles 1978-1979*, note on off-shore resources, p. 19.

[214] *Ibid.*, p. 19.

[215] *Ibid.*, note on fisheries, p. 17.

[216] Québec document on industrial development, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-9/050, p. 11.

[217] Statement by Rodrigue Tremblay, Minister of Industry and Commerce, Federal-Provincial Conference of Ministers of Industry, Ottawa, January 30, 1978, CICS, doc. 830-45/006, p. 14.

[218] Ministre d'État au Développement culturel, *Pour une politique québécoise de la recherche scientifique*, Québec, Éditeur officiel du Québec, 1979, p. 72-73.

188. It is essential that any future cultural policy for Canada fully recognize the distinct cultural character of Québec, insofar as the development, promotion and protection of this character are concerned. How can this be achieved except through the Québec government's control over the sector that influences culture on a daily basis: communications?[219]

189. The necessity of Québec's intervention in the area of communications rests on the imperatives of civilization, cultural necessities, and its responsibility to develop and apply a coherent communications policy. [...] The Québec government, a daily participant together with the population in the life of Québec, is in the best position to appreciate the reality of Québec and reflect that reality in appropriate regulations.[220]

190. The Québec government would like to see a constitutional power-sharing formula used in communications. This formula proposes that when a provincial law requires provincial telecommunications companies to obtain an operating licence, any federal company operating or wishing to operate in Québec should hold a licence from the provincial regulatory agency.[221] Québec maintains that pay-TV falls within its jurisdiction.[222]

191. It is essential that the Québec government participate on at least an equal footing with the federal government and other provincial governments in developing policies on satellites and in decision-making.[223]

192. Since mineral resources and their management are under provincial jurisdiction (BNA Act, Sec. 109), it is up to the provinces to decide on the best ways to ensure the viability and growth of their mining industry.[224]

193. Québec considers it is in the best position to design and implement an appropriate economic development policy for its people.[225]

194. Québec maintains that the provinces have exclusive ownership of their natural resources.[226]

195. Québec demands provincial access to all forms of taxation, except customs duties.[227]

196. Provinces that wish to should be able to exercise exclusive jurisdiction over tourism and receive the unconditional transfer of federal funds currently allocated for this purpose.[228]

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[219] Opening statement by Denis Vaugeois, Minister of Communications, Federal-Provincial Conference of Ministers of Communications, Toronto, October 16-17, 1979 (quotation), CICS, doc. 800-11/027, p. 3.

[220] Government of Québec, document on federal legislation and delegation of powers, Federal-Provincial Conference of Ministers of Communications, Charlottetown, March 29-30, 1978 (quotation), CICS, doc. 830-39/018, p. 4.

[221] *Ibid.*, p. 6.

[222] Government of Québec, document on pay-TV, Federal-Provincial Conference of Ministers of Communications, Charlottetown, March 29-30, 1978, CICS, doc. 830-39/32, p. 2; see also the document of the Government of Québec, Federal-Provincial Conference of Ministers of Communications, Toronto, October 16-17, 1979, CICS, doc. 830-54/022, p. 2.

[223] Government of Québec, document on policies relating to satellites, Federal-Provincial Conference of Ministers of Communications, Toronto, October 16-17, 1979 (quotation), CICS, doc. 830-54/022, p. 2.

[224] Declaration of the government of Québec, Federal-Provincial Conference of Ministers of Mines, Toronto, January 19-20, 1978 (quotation), CICS, doc. 830-9/009, p. 1.

[225] Notes for a declaration by René Lévesque at the end of the First Ministers Conference on the Economy, Ottawa, November 27-29, 1978 (quotation), CICS, doc. 800-9/086, p. 2.

[226] Statement by Yves Bérubé, Minister of Energy and Resources, First Ministers Conference on Energy, Ottawa, November 12, 1979, CICS, doc. 800-11/027, p. 8.

[227] *Dossier sur les discussions constitutionnnelles 1978-1979*, note on indirect taxation, p. 11.

[228] Government of Québec, document on tourism, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-09/048, p. 2.

197. Québec demands complete and exclusive jurisdiction over recreation. The links between culture and recreation are too strong to allow another government body to intervene in Québec. The federal government's responsibility would be limited to funding.[229]

198. The Québec government claims primary responsibility for its cultural and natural heritage and demands that bilateral negotiations between Québec and Ottawa be opened immediately concerning the restitution of cultural properties, sites and historic places owned or managed by the federal government within Québec, as well as the integration of national historic parks and the Battlefields Park (Plains of Abraham) and federal parks into the Québec parks network.[230]

199. Québec demands that jurisdiction over all correctional services be ceded to the provinces, subject to the transfer of the corresponding financial resources. There seems to be little rational basis for the current division of responsibilities, the result being duplication in certain areas, including the administration and management of institutions, parole and community supervision.[231]

200. Social services areas come under the exclusive jurisdiction of the provinces.[232]

201. Health comes under the exclusive jurisdiction of the provinces.[233]

202. The provinces have exclusive responsibility for deciding whether or not to intervene in collective negotiations that come under their jurisdiction. Québec intends to maintain room to maneuver in labour relations, convinced that it and it alone must set its priorities in this area.[234]

c) Unilateral powers

203. The federal spending power should be limited solely to areas listed as within exclusive or concurrent federal jurisdiction. However, a decision is needed on the method of compensation for provinces that decide not to participate in federal programs.[235]

204. Québec demands the elimination of the federal declaratory power, given that provinces enjoy internal sovereignty over their areas of jurisdiction.[236]

••• Individual and language rights

205. If all provinces were to demand a charter, Québec would oppose the inclusion of rights other than those that have been seriously tested in the courts, so as to avoid the disadvantages of an entrenched charter as much as possible.[237]

206. Québec is opposed to the inclusion in the Constitution of language rights that

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[229] Declaration by Claude Charron, Minister responsible for the Haut-Commissariat à la Jeunesse, aux Loisirs et aux Sports, Interprovincial Conference of Ministers of Sports and Recreation, Winnipeg, May 31 and June 1, 1977, taken from *Québec-Canada*, ministère des Affaires intergouvernementales, vol. 5, no. 3, May-June 1977, p. 1.

[230] Press release from the office of Yves Duhaime, Minister of Tourism, Game and Fishing, Federal-Provincial Conference on Parks, Victoria, September 25 and 26, 1978.

[231] Press release, office of the Minister of Justice, Federal-Provincial Conference of Attorneys General and Ministers responsible for Correctional Services, Ottawa, June 27, 1977, CICS, doc. 830-32/023.

[232] Statement by Denis Lazure, Minister of Social Affairs, Federal-Provincial Conference of Ministers of Social Welfare, Ottawa, March 6-7, 1978, taken from *Québec-Canada*, ministère des Affaires intergouvernementales, vol. 7, no. 3, March 1978, p. 2.

[233] Statement by Denis Lazure, Minister of Social Affairs, Federal-Provincial Conference of Ministers of Health, Ottawa, June 22-23, 1977, taken from *Québec-Canada*, ministère des Affaires intergouvernementales, vol. 5, no. 4, July 1977, p. 2.

[234] Notes for the Québec delegation on the issue of labour relations in the post-controls period. Federal-Provincial Conference of First Ministers, Ottawa, February 13 to 15, 1978, CICS, doc. 800-7/062, p. 1 and 5.

[235] *Dossier sur les discussions constitutionnelles 1978-1979*, note on the federal spending power, p. 6.

[236] *Ibid.*, note on the declaratory power, p. 7.

[237] *Ibid.*, note on the charter of rights and freedoms, p. 23 (quotation).

would limit its freedom to maneuver in a sector so vital to its future as a society. Québec cannot accept that its autonomy in this area be replaced by a limited authority subject to interpretation by the courts.[238]

Education in the language of the minority: See paragraph 215.

••• Institutions

207. The goal of Senate reform must be real representation of the provinces at the central level, and their participation in the exercise of federal power. However, if the Upper House is truly to represent the provinces, its members must be appointed by provincial governments for a limited term. Furthermore, Québec believes it would be difficult to determine the composition and powers of a new Upper House in which the provinces would participate in the exercise of federal powers as long as these powers have not been redefined. In general, on the Senate issue, Québec reiterates the Johnson position of 1968. The Senate's composition and operation should reflect the Canadian duality.[239]

Federal institutions and Québec priorities: See paragraph 178.

208. Québec seeks the creation of a constitutional court the majority of whose judges would be directly appointed by the provinces. Furthermore, if a matter referred to a court raises a constitutional issue that is deemed serious, procedures should be suspended and the issue immediately referred to the constitutional court.[240]

209. Québec demands that the Québec Court of Appeal be the court of final appeal in matters relating to Québec civil law, and that each order of government be charged exclusively with appointing judges to courts under its own jurisdiction, which, consequently, would cover judges of the Superior Court and the Court of Appeal.[241]

210. Québec is opposed to any increase in the Governor General's authority.[242]

••• Intergovernmental policy

a) Financial aspects of federalism

211. Québec objects to the many federal cutbacks that are gradually forcing it into an increasingly difficult financial situation, in the hopes of leading it to recognize as its own federal priorities, federal programs, federal distributions to citizens.[243]

212. Québec demands a new distribution of taxation that reflects the provinces' relatively smaller fiscal leeway compared to the federal government and the special situation of Québec, which is different from that of other provinces owing to the implementation of its own programs and has resulted in a considerable increase in Quebecers' tax burden and public indebtedness.[244]

Taxation: See also paragraph 195.

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[238] Letter from René Lévesque to Prime Minister Pierre Elliott Trudeau, September 9, 1977.

[239] *Dossier sur les discussions constitutionnelles 1978-1979*, note on the Senate, p. 27.

[240] *Ibid.*, note on the Supreme Court, p. 25.

[241] *Ibid.*

[242] *Dossier sur les discussions constitutionnelles 1978-1979*, note on the monarchy, p. 28.

[243] Speaking notes for the Minister of Finance of Québec, First Ministers Conference on the Economy, Ottawa, November 27-29, 1978, CICS, doc. 800-9/036, p. 11.

[244] Budget Speech delivered by Jacques Parizeau, Minister of Finance, Minister of Revenue and Chairman of the Conseil du Trésor, Québec National Assembly, *Journal des débats*, April 12, 1977, p. 593-595.

213. Québec proposes that the federal government make annual unconditional equalization payments to the provinces so that each province can, according to its fiscal capacity, provide comparable public services at comparable rates of taxation, with a view to reducing social and economic disparities in Canada.[245]

b) Aboriginal Nations

214. Three principles apply to the issue of aboriginal peoples: 1) any attempt to determine their future for them must be rejected; these communities are first and foremost responsible for making decisions on their development, which assumes they will fully discuss their social and cultural status; 2) aboriginal peoples must not be left to fend for themselves using only their own resources; they must be able to rely on support from the Québec government; 3) aboriginal communities have a responsibility to develop institutions and strategies that suit their cultural development.[246]

c) French-Speaking and Acadian Communities of Canada

215. The government of Québec proposes to the governments of the other provinces that would so desire as it does, enhanced access to schooling in the language of the minority and the drawing up of reciprocal agreements to such end. Québec is prepared to negotiate agreements with other provinces that would provide citizens of other provinces who settle in Québec with access to English schools according to the terms and conditions that apply to anglophones in Québec.[247]

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[245] *Dossier sur les discussions constitutionnelles 1978-1979*, note on equalization payments and regional disparities, p. 9.

[246] *La politique québécoise du développement culturel*, volume 1, ministre d'État au Développement culturel, Québec, Éditeur officiel du Québec, 1978, p. 89 and 90.

[247] Declaration by the Prime Minister of Québec on reciprocal education agreements, Eighteenth Annual Provincial Premiers Conference, St. Andrews, New Brunswick, August 18-19, 1977, CICS, doc. 850-8/012, p. 4 and 6.

GOVERNMENT OF RENÉ LÉVESQUE

(POST-REFERENDUM PERIOD, MAY 21, 1980 TO MAY 1985)

Daniel Lessard

Source: Archives nationales du Québec

••• Status of Québec

216. Canada is made up of two equal nations; Québec is the home and foundation of one of these nations and, having the attributes of a distinct national community, enjoys an inalienable right to self-determination. The right to self-determination is the most fundamental right of Québec society.[248]

217. The clear recognition of the right to self-determination is the most valuable accomplishment of the Québec referendum [...]. It is now undisputed and undisputable that Québec constitutes a distinct national community which can by itself, without outside interference, choose its constitutional status, [...]. The right—to control its own national destiny—is the most fundamental right enjoyed by the Québec people.[249]

218. The fundamental issue for Québec in its federal-provincial relations is the following: is it possible to renew Canadian federalism in such a way that Québec can, within this system, exercise the powers and control the levers necessary for it to fulfill its role as the home and homeland of one of the constituent nations of Canada?[250]

219. To be valid, any renewal of the federal system must include concrete recognition of Québec's national identity and of the future requirements inherent in that, whether in terms of culture, communications, economic development and social policy.[251]

Recognition of Québec:
See also paragraphs 221 and 224.

220. In discussions on the patriation of the Canadian Constitution, Québec presents the following proposal regarding the issue of a preamble and a statement of the purpose of the Constitution:

"According to the wishes of Canadians, the provinces, in concert with the federal government, want to remain freely united in a federation, as a sovereign and independent country, under the Crown of Canada, with a constitution that is similar, in terms of its principles, to the existing constitution;

THE FUNDAMENTAL GOAL of the federation is to preserve and promote freedom, justice and the well-being of all Canadians. That is, to:

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[248] Speaking notes for René Lévesque, First Ministers Meeting, Ottawa, June 9, 1980, *Dossier sur les discussions constitutionnelles*, Commission parlementaire de la Présidence du Conseil et de la Constitution, Québec, August 14-15, 1980, index 1, p. 2 and 3 (See part 2 of this document).

[249] *Ibid.*, p. 1 (quotation) [Translation].

[250] Statement by René Lévesque, Québec National Assembly, *Journal des débats*, June 5, 1980, p. 5992.

[251] Opening statement by René Lévesque, Federal-Provincial Conference of the First Ministers on the Constitution, Ottawa, September 8-13, 1980, CICS, doc. 800-14/037, p. 5, 6 and 7.

PROTECT individual and collective rights, including those of aboriginal peoples;

ENSURE that laws and political institutions are based on the will and consent of the people;

PROMOTE the economic aspirations, security and development of the various cultural groups in Canada;

RECOGNIZE the distinct character of the people of Québec which, with its francophone majority, is one of the pillars of the Canadian duality;

CONTRIBUTE to the freedom and well-being of humanity."[252]

••• Constitutional reform process

221. Québec's expectations from the resumption of constitutional negotiations are:

a) that they acknowledge the existence of a distinct society in Québec that wants to be recognized as such, that is free to decide its future and intends to maintain the cultural, economic and language tools to affirm itself and develop according to its own aspirations and needs, and to acquire the tools it currently lacks;

b) that they result in a clarification of the distribution of powers and a significant reduction in areas of federal-provincial overlapping;

c) that the federal government acknowledge that the provinces are not regional administrative entities, but major, responsible partners.[253]

222. Provided the government of Canada withdraws its patriation proposal, Québec would agree to an amending formula in which:

a) in general, a constitutional amendment would require approval by the federal Parliament and seven provinces representing at least 50% of the population of Canada;

b) any province could withdraw, with reasonable compensation, from a constitutional amendment (passed according to the above formula, excepting those concerning Senate reform and the Supreme Court, among others) that reduces the legislative authority, property rights or other rights or privileges of the legislature or government of a province;

c) any constitutional change concerning the office of the Queen, the Governor General and the Lieutenant Governor, use of French or English, the composition of the Supreme Court and changes to the amending formula, among others, requires unanimous consent.[254]

223. The National Assembly of Québec, mindful of the right of the people of Québec to self-determination, and exercising its historical right of being a full party to any change to the Constitution of Canada which would affect the rights and powers of Québec, declares that it cannot accept the plan to patriate the Constitution.[255]

224. Québec sets four conditions for its signing of the *Constitution Act, 1982*:

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[252] Opening statement by René Lévesque, Federal-Provincial Conference of the First Ministers on the Constitution, Ottawa, September 8-13, 1980, CICS, doc. 800-14/037, p. 5, 6 and 7.

[253] Preliminary declaration by Claude Morin, Minister of Intergovernmental Affairs, Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index B, p. 3.

[254] Constitutional agreement, Canadian proposal for the patriation of the Constitution, April 16, 1981; document signed by provinces, except Ontario and New Brunswick (Part 3: document no. 14). Québec's opposition to the federal project for unilateral patriation was also expressed in the resolutions of the Québec National Assembly on November 21, 1980 and October 2, 1981 (See part 3: documents no. 13 and 15).

[255] Resolution of the Québec National Assembly, December 1, 1981 (quotation; see part 3: document no. 18). See also the Constitutional agreement, November 5, 1981 on patriation finalized without Québec's participation (Part 3: document no. 16) and the declaration by René Lévesque, November 5, 1981 (See part 2 of this document). See also Order-in-Council no. 3214-81 of the government of Québec, November 25, 1981 (Part 3: document no. 17).

1) recognition of the principle of equality of the founding peoples and the distinct character of Québec as a society; 2) a *veto* or general opting-out right with full financial compensation; 3) non-application of section 23 to Québec; and 4) abrogation of the Charter's mobility rights.[256]

225. Québec agrees to participate in aboriginal peoples conferences at the express request of representatives of aboriginal nations in Québec. This participation cannot be interpreted as recognition of the Constitution Act, 1982.[257]

••• Constitutional amending procedure

See paragraphs 222-224.

••• Distribution of powers

a) General principles

226. Affirmation of the basic equality of the two founding peoples cannot occur within Canadian federalism unless Québec is granted a unique role and the ability to exercise a set of special powers.[258] These powers affect education (including adult education), communications (radio, television, cable distribution and pay-TV), social policy, immigration, economic development, natural resources and Québec's international affirmation.[259]

227. The Québec government has always maintained that it cannot accept a pan-Canadian approach to the development of economic policy. Regional differences in Canada and the disparities in development in each region are too marked to think that standardized measures can be effective everywhere to the same degree. The Québec government is surely in the best position, if it is given the means, to promote economic development.[260]

Economic powers: See also paragraph 249.

228. The government nearest the people is in the best position to appreciate the circumstances of the various groups making up the population and is best able to adapt its legislation, programs and services to the needs expressed by citizens. The current status of women is not foreign to this observation and provides an outstanding example of the need for the central government to respect provincial primacy and autonomy in order to protect women's rights and improve their situation. For this reason, Québec immediately rejects the idea of a national action plan.[261]

Clarification of the distribution of powers and constitutional reform: See paragraph 221.

b) Sectorial jurisdictions

229. Québec demands that provincial legislative primacy in the realm of communications and communications systems be written into the Constitution, including: 1) the reception and transmission

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[256] Resolution of the Québec National Assembly, December 1, 1981 (See part 3: document no. 18); see also the letter from René Lévesque to Margaret Thatcher, Prime Minister of Great Britain, December 19, 1981 and the letter from René Lévesque to Prime Minister Pierre Elliott Trudeau, December 17, 1982.

[257] Opening statement by René Lévesque, Conferences of First Ministers on Constitutional Issues of Interest to Native People, Ottawa, March 15-16, 1983, CICS, doc. 800-17/033, p. 1, March 8-9, 1984, CICS, doc. 800-18/021, p. 1 and April 2-3, 1985, CICS, doc. 800-20/014, p. 1.

[258] Speaking notes for René Lévesque, First Ministers Meeting, Ottawa, June 9, 1980, *Dossier sur les discussions constitutionnelles*, index 1, p. 4 (See part 2 of this document).

[259] Statement by René Lévesque, Québec National Assembly, *Journal des débats*, June 5, 1980, p. 5995-5999.

[260] Government of Québec, document on economic development, Federal-Provincial Ministers Conference on the Economy, Ottawa, February 1982, CICS, doc. 800-16/018, p. 4.

[261] Speaking notes for Pauline Marois, Minister responsible for the Status of Women, Federal-Provincial-Territorial Conference of Ministers responsible for the Status of Women, Ottawa, May 31 and June 1, 1983, CICS, doc. 830-129/019, p. 3-4.

within the province of signals from outside the province; 2) the transmission outside a province of signals originating inside the province; 3) the ownership and management of communications and communications systems; 4) the programming, including commercial advertising; 5) authority to issue operating Licences, as well as the specific assignment of frequencies and other technical operating standards. In addition, the federal Parliament would be authorized to legislate exclusively in areas such as 1) the general management of broadcast frequencies; 2) the use of communications and communications systems for aeronautics, defence or national emergencies 3) matters relating to the Canadian Broadcasting Corporation, whose development plans would, however, be subject to approval by the government of a province for activities within that province.[262]

230. Québec requests that the federal government respect provincial jurisdiction over closed-circuit television services and proposes that any business wishing to distribute a pay-TV service be required to satisfy conditions set by the province.[263]

Communications: See also paragraph 226.

231. Québec considers that in the Gulf of St. Lawrence its territory extends to the median lines dividing its shores. Concerning ore and other resources located outside the immediate territory of the provinces in the 200-mile economic zone, Québec advocates concurrent jurisdiction with provincial legislation taking precedence. The exception would be the distribution of mining duties among provinces, where federal authority could take precedence until the provinces concerned reach an agreement on the matter.[264]

232. Québec proposes to add fishing and fisheries within the province to the list of areas of which the provinces would have exclusive legislative power, and to eliminate this power from the list of areas subject to exclusive federal legislative authority. A provision must be added to the Constitution defining the rights of the provinces bordering on the Gulf of St. Lawrence and specifying that the limits of the provinces of Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland extend to the median lines equidistant from their respective Gulf shores.[265]

233. Québec claims full jurisdiction over job creation programs and demands the recovery of funds allocated for this purpose by the federal government. Québec bases this claim on the fact that francophone workers have little out-of-province mobility because of significant social and cultural factors.[266]

234. Québec wants full responsibility over policy and decision-making in the area of adult training and asks the federal

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[262] Notes of the Québec government on communications, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossiers sur les discussions constitutionnelles*, index 8, p. 1-3.

[263] Proposal by Québec concerning pay-TV, Federal-Provincial Conference of Ministers of Communications, Winnipeg, September 9-10, 1981, CICS, doc. 830-103/012; see also Québec's position on pay-TV, Federal-Provincial Conference of Ministers of Communications, Calgary, May 21, 1982, CICS, doc. 830-117/009.

[264] Note of the Québec government on off-shore resources, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 6, p. 1.

[265] Note of the Québec government on fisheries, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 7, p. 2-3.

[266] Supporting document of the Québec government on human resources, First Ministers Conference on the Economy, Ottawa, February 1982, CICS, doc. 800-16/044-1, p. 4.

government for the transfer of all federal funds allocated to adult vocational training in Québec.[267]

Vocational training: See also paragraph 246.

235. Québec considers that unconditional transfers of funds for post-secondary education, tuition fees and student assistance are not negotiable because they relate to education and fall within the provinces' exclusive jurisdiction.[268]

Education: See also paragraphs 226, 238 and 246.

236. Québec makes the following constitutional proposals concerning family law:

a) marriage should be within exclusive provincial jurisdiction;

b) divorce would be an area of concurrent jurisdiction, though provincial legislation would have primacy over federal legislation. In addition, a province could exclude, by declaration of the legislature, the federal Parliament from the realm of divorce;

c) furthermore, the provinces would have exclusive jurisdiction over ancillary divorce measures (alimony, maintenance, etc.) while the federal Parliament would have exclusive jurisdiction over standard rules concerning national recognition of divorce judgments issued both in Canada and in other countries;

d) in addition, the provinces would have the authority to appoint judges to a unified family court.[269]

237. Québec proposes that each province have exclusive jurisdiction over natural resources (including regulation of interprovincial trade), with provincial legislation taking precedence over federal legislation in this area, so that the federal government could not invoke its general powers (residuary and implicit power, declaratory, reserve and disallowance powers, exceptional provisional power, etc.) to override a provincial law. In addition, the provinces' public ownership should not be subject to expropriation by Parliament, except with the consent of the provincial government concerned.[270]

Québec's international affirmation: See paragraph 226.

Status of women: See paragraph 228.

c) Unilateral powers

238. Québec denounces the encroachment on provincial jurisdiction caused by the imposition of federal national standards that, through the federal spending power, erode the distribution of powers between the two orders of government. It is unacceptable to Québec that the federal government implement an inspection and monitoring system in a sector of provincial jurisdiction such as health, that it pay grants to municipalities directly and make payment of its contributions subject to compliance with the criteria of "national" objectives, in particular in education. If provincial jurisdiction is

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[267] Supporting document of the Québec government on human resources, First Ministers Conference on the Economy, Ottawa, February 1982, CICS, doc. 800-16/044-1, p. 4. See also the statement by René Lévesque, Annual First Ministers Conference, Charlottetown, August 19-22, 1984, CICS, doc. 800-26/007, p. 3. Concerning vocational training, see also a note of the Québec government on adult vocational training in Québec, First Ministers Conference on the Economy, Regina, February 14-15, 1985, CICS, doc. 800-19/036, p. 35-36.

[268] Supporting document of the Québec government on human resources, First Ministers Conference on the Economy, Ottawa, February 1982, CICS, doc. 800-16/044-1, p. 4.

[269] Note of the Québec government on family law, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 11, p. 2.

[270] Note of the Québec government on natural resources, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 5, p. 3-4. The government reiterates the position taken at the First Ministers Conference of February 1979.

to be defended, the provinces must effectively exercise their powers, fully occupy their areas of jurisdiction and the federal spending power must be limited, with the latter a priority.[271]

Subsidies for municipalities: See also paragraph 247.

Unilateral powers and natural resources: See paragraph 237.

••• Individual and language rights

239. The vast area of rights and liberties is evolving rapidly. Constitutional entrenchment would inevitably complicate this process, make it infinitely more difficult and deny elected assemblies the power to act democratically in this area, transferring it to the courts for judgment.[272]

240. Québec is opposed to the inclusion in the Constitution of language rights that would limit its freedom to maneuver in a sector so vital to its future as a society. Québec cannot accept that its autonomy in this area be replaced by a limited authority subject to interpretation by the courts.[273]

241. Québec will include an override clause in each statute passed by the National Assembly before April 17, 1982. A similar clause will henceforth be added as a matter of course to each bill submitted to the National Assembly.[274]

School language rights and mobility rights: See paragraph 224.

••• Institutions

242. Québec proposes that the following points be included in the Constitution concerning the Supreme Court:

a) institutionalize the Supreme Court;

b) confirm the current composition of the Court, i.e. nine judges, three of whom are from Québec;

c) specify that the federal government, before appointing a judge to the Court, must obtain the approval of the Minister of Justice of Québec or of the province concerned;

d) specify that the Supreme Court is the last resort tribunal in Canada, both for civil and criminal matters;

e) indicate that when the Court must decide on an issue of civil law in Québec, a bench will be formed on which the majority of the judges will be from Québec;

f) add that the provinces can refer a request for an opinion to the Court;

g) entrench the rule of linguistic alternation of the Chief Justice of the Supreme Court;

h) create a constitutional bench on the Court, half of whose members to be drawn from Québec and the other half from the other provinces. This bench would be responsible for deciding constitutional disputes submitted by the provinces or the federal government.[275]

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[271] Statement by René Lévesque on the current situation and priorities for the future, Annual First Ministers Conference, Charlottetown, 1984.

[272] Speaking note for René Lévesque, First Ministers Meeting, Ottawa, June 9, 1980, *Dossiers sur les discussions constitutionnelles*, index 1, p. 5 (See part 2 of this document). On this subject, see also paragraph 206.

[273] Note of the Québec government on the Charter of Rights, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 3, p. 5 (quotation).

[274] Statement by Marc-André Bédard, Minister of Justice, *Journal des débats*, May 5, 1982, p. 3291.

[275] Note of the Québec government on the Supreme Court, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 10, p. 2. In January 1979, the Lévesque Government asked for the creation of a constitutional court, the majority of whose judges would be appointed directly by the provinces, and demanded that jurisdiction over Québec civil law rest, in the final instance, with the Québec Court of Appeal. See *Dossier sur les discussions constitutionnelles 1978-1979*.

243. The provinces should have the constitutional authority to appoint judges to superior, district and county courts.[276]

244. According to Québec, a reformed Upper House should provide significant provincial representation and participation in the exercise of federal power. Québec also believes that the composition and operation of this House should reflect the dual nature of the Canadian nation.[277]

••• Intergovernmental policy

a) Conducting intergovernmental relations

245. As long as the people of Québec have not decided democratically to opt for a different regime, a government headed by the Parti québécois must act to protect and defend the interests of Québec within the federal system. The federal government will find Québec quite prepared to maintain harmonious relations with it.[278]

246. Québec is prepared, in spite of diverging constitutional interests, to agree to occasionally adopt joint actions with the provinces concerning specific issues (education, municipal institutions, vocational training, economic development, federal spending power).[279]

247. The Québec government has never agreed nor has it the intention of agreeing to the implementation of a system of direct relations between the federal government and the municipalities. Such a system would in fact erode the province's already too-limited jurisdiction.[280]

b) Financial aspects of federalism

248. The Québec government agrees that the principle of unconditional federal payments to the provincial governments should be written into the Constitution [...]. Such payments should be the preferred method of correcting regional disparities. Furthermore, Québec is prepared to have written into the Constitution the principle according to which all governments commit themselves to reduce regional disparities.[281]

Unconditional transfers: See also paragraph 235.

249. Québec and the provinces in general must have real economic powers.[282] Québec proposes that certain economic powers be decentralized. It also wants to increase the means at its disposal to stimulate growth within Québec and correct market imbalances, and does not agree economic under-development be mitigated by higher transfer payments.[283]

c) Aboriginal Nations

250. Québec formulates its reply to aboriginal demands:

a) it recognizes that the aboriginal peoples of Québec are distinct nations and have a right to their culture, their language, their customs and traditions as well as the right to decide how to develop this separate identity;

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[276] Note of the Québec government on the Supreme Court, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 10, p. 3.

[277] Note for an intervention by Québec on the Senate, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 9, p. 3.

[278] Inaugural message of René Lévesque, fifth session of the 32nd Legislature, *Journal des débats*, October 16, 1984, p. 22.

[279] Statement by René Lévesque on the current situation and priorities for the future, Annual First Ministers Conference, Charlottetown, August 19-22, 1984, CICS, doc. 850-26/007, p. 6.

[280] Speaking notes for Jacques Léonard, Minister of Municipal Affairs, Interprovincial Conference of Ministers of Municipal Affairs, Victoria, August 9-12, 1983, CICS, doc. 860-130/013, p. 2 (quotation); see also the letter from René Lévesque to Pierre Elliott Trudeau, May 26, 1983, CICS, doc. 860-130/014, p. 1.

[281] Note of the Québec government on equalization and regional disparities, meeting of the Comité permanent des ministres sur la Constitution, Montréal, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 12, p. 3.

[282] Notes of the Québec government on the powers affecting the economy, meeting of the Comité permanent des ministres sur la Constitution, July 8-11, 1980, *Dossier sur les discussions constitutionnelles*, index 4, p. 3.

[283] Comments by Québec on the federal positions relating to economic powers, Vancouver, July 22-24, 1980, *Dossier sur les discussions constitutionnelles*.

b) it also recognizes that aboriginal nations, within the structure of the laws of Québec, have the right to own and control the lands attributed to them;

c) these rights must be exercised within the context of Québec society, and consequently they cannot include sovereignty rights that could jeopardize the territorial integrity of Québec;

[...]

j) from Québec's point of view, protection of the existing aboriginal rights also extends to the rights included in agreements reached with Québec as part of the land claims process. In addition, the James Bay and Northern Québec Agreement and the North-eastern Québec Agreement must be viewed as treaties and have full effect;

k) Québec is ready to explicitly recognize in its legislation the existing rights stemming from the Royal Proclamation of 1763 concerning aboriginal nations.[284]

Participation in conference on Aboriginal Peoples: See paragraph 225.

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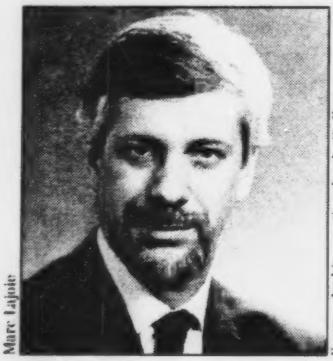
[284] Cabinet decision, February 9, 1983, included in *Les fondements de la politique du gouvernement du Québec en matière autochtone*, Secrétariat aux affaires autochtones, gouvernement du Québec, 1988, p. 3 and 4. See also the resolutions of the Québec National Assembly on March 20, 1985 and May 30, 1989 (Part 3: document no. 19).

GOVERNMENTS OF RENÉ LÉVESQUE AND PIERRE MARC JOHNSON

(MAY TO DECEMBER 2, 1985)[285]



Marc Lajoie

Source: Archives nationales du Québec

••• Status of Québec

251. The federal framework of the current Constitution should be improved to ensure that Quebecers obtain the most favourable conditions possible for their development.

252. The Québec people have the inalienable right to democratically determine their constitutional future as they see fit.

••• Constitutional reform process

253. Recognition of the existence of the Québec people as such is the essential prerequisite to Québec's agreement to and participation in a new constitutional process.

254. Québec is prepared to reach a constitutional agreement with the rest of Canada, designed to repair the injuries done to Québec in 1981, provided 1) Québec's primary jurisdiction in terms of rights and freedoms is acknowledged; 2) the amending formula is changed to provide Québec with sufficient guarantees; 3) that the distribution of powers is rearranged and judicial institutions are reformed.

••• Constitutional amending procedure

255. It should be recognized that Québec has a *veto* over both the reform of federal institutions and the creation of new provinces.

256. Regarding changes to the distribution of powers, Québec should have a *veto* or constitutional right to opt out with reasonable and mandatory financial compensation.

••• Distribution of powers

a) Sectorial jurisdictions

257. The distribution of constitutional powers should be revised so as to:

a) confirm Québec's full control over the manpower and all associated areas;[286]

b) recognize Québec's primary authority for the general direction of its economic development;

c) acknowledge Québec's primacy of jurisdiction in the area of immigrant selection and settlement in Québec;

d) grant Québec a significant increase in its powers in communications;

e) recognize Québec's exclusive jurisdiction over marriage and divorce;

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[285] Unless indicated otherwise, the following positions are taken from the document *Draft Agreement on the Constitution. Proposals by the Government of Québec*, May 1985 (Part 3: document no. 20).

[286] See also the note of the government of Québec concerning job creation and vocational training, First Ministers Conference, St. John's, Newfoundland, August 21 and 22, 1985, CICS, doc. 850-31/019, p. 68-69.

f) recognize, in terms of international relations, Québec's unique situation whenever its jurisdiction and identity are at issue, particularly as part of French-Speaking Communities.[287]

258. The National Battlefields Commission has jurisdiction over historic sites that are significant in the history of Québec such as the Plains of Abraham and the Parc des Braves that are located in the heart of the Québec capital. Québec requests that this commission's responsibilities be transferred to it.[288]

Culture and education: See paragraph 270.

Negotiations for liberalizing exchanges and distribution of powers: See paragraph 272.

b) Unilateral powers

259. The federal spending power should be constrained so that payment of conditional grants to the provinces is subject to the agreement of a majority of them. Any province refusing such grants should receive fair compensation.

260. The reserve and disallowance powers should be abolished.

••• Individual and language rights

261. The Canadian Constitution must recognize Québec's exclusive right to decide its official language and to legislate on any language issue within its jurisdiction.

262. Québec would guarantee the right of the anglophone minority to retain its cultural and educational institutions, and receive health care and social services in its language.[289]

263. Québec is prepared to amend the Charter of the French Language to guarantee that children of parents who received their elementary education in English in Canada will have access to English schools; in return, it expects that children eligible for French education everywhere in Canada will be able to effectively exercise the guarantee accorded by section 23.[290]

264. Only sections 3 to 5 of the Canadian Charter should continue to apply in Québec.

265. Québec's legislation should have the authority to subject its legislation solely to the Québec Charter of Rights and Freedoms, so that it could include the Charter in the Constitution of Québec.[291]

Primary responsibility of Québec in matters of rights and freedoms: See paragraph 254.

••• Institutions

266. The Constitution should explicitly recognize that three of the nine judges of the Supreme Court of Canada are to be appointed from Québec and that the position of Chief Justice is to be filled according to the principle of linguistic alternation.

267. Québec should have the constitutional right to participate in the appointment of Supreme Court of Canada judges from Québec. Its agreement should be obtained before their appointment by the federal government.

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[287] Position reiterated in *Le Québec dans le monde, Le défi de l'interdépendance, Énoncé de politique de relations internationales*, gouvernement du Québec, Ministère des Relations internationales, June 1985, p. 8. Regarding French-Speaking Communities, see the *Agreement between the government of Québec and the government of Canada pertaining to the Francophone Summit*, November 7, 1985 (Part 3: document no. 21).

[288] Letter from Pierre Marc Johnson, then Minister responsible for Canadian Intergovernmental Affairs, to Tom McMillan, federal Minister of Environment, Québec, November 5, 1985.

[289] See also speech by Pierre Marc Johnson, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, Ottawa, May 25, 1985.

[290] *Ibid.*

[291] See also speech by Pierre Marc Johnson, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, Montréal, May 29, 1985.

268. Only judges who are from Québec and trained in civil law should decide matters of civil law.

269. Québec should have the power to appoint, following consultation with the federal government, judges to Québec Superior Courts.

••• Intergovernmental policy

a) Conducting intergovernmental relations

270. Payments of federal grants to individuals and institutions working in the areas of culture and education should be subject to Québec's prior approval.

b) French-Speaking and Acadian Communities of Canada

271. To support the development of francophone minorities, Québec is prepared to negotiate mutual assistance agreements with the government of any other province.

French education: See paragraph 263.

c) Trade

272. The Québec government's support for holding negotiations on free trade comes with a certain number of conditions: 1) Québec wants to participate in the entire negotiation process (determination of objectives and mandates) and in the negotiation itself through the presence of representatives from Québec on the negotiation team; 2) transition, reassignment and job protection measures must be developed jointly by the federal government and the provinces to facilitate the adaptation of workers, businesses and regions to the changes resulting from a change in the trade system [...]; 3) in accordance with the Constitution of 1867, Québec will only consider itself bound, in areas within its jurisdiction, if it has given its consent.[292]

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[292] Statement by Pierre Marc Johnson, First Ministers Conference on the Economy, Halifax, November 28-29, 1985, CICS, doc. 800-21/031, p. 6 (quotation).

SECOND GOVERNMENT OF ROBERT BOURASSA

(PERIOD PRECEDING THE FAILURE OF THE MEECH LAKE ACCORD, DECEMBER 12, 1985 TO JUNE 21, 1990)

Daniel Lessard

Source: Archives nationales du Québec

••• Status of Québec

273. Québec's future lies within Canada. That is the profound conviction of the vast majority of Quebecers and the first and fundamental commitment of this government. The Québec government believes in federalism because, within the federal system, Québec can not only be faithful to its history and special identity but also enjoy favourable conditions for its full economic, social and cultural development.[293]

274. Recognition of Québec's specificity is a pre-requisite to any talks to persuade Québec to support the *Constitution Act of 1982*. Such recognition must guarantee Québec the means necessary to ensure its full development within the framework of Canadian federalism.[294]

275. Given its special situation within Canada and North America, Québec has sought, by means of the five conditions for its endorsement of the *Constitution Act, 1982*, to obtain assurance that the Canadian Constitution will enable it to attain its full potential within the Federation and receive the guarantees and powers necessary to protect and develop the characteristics that contribute to its specificity. Recognition of Québec's specificity was therefore a prerequisite to any negotiation intended to achieve Québec's endorsement of the *Constitution Act, 1982*. The efforts to find satisfactory constitutional answers to the other conditions laid down by Québec were based essentially on this special identity that sets Québec apart, particularly at the cultural, linguistic, social, economic, legal and political levels. Recognition of the distinct character of Québec society therefore became the generating principle of the other conditions, their common *raison d'être*.[295]

Distinct society and Meech Lake Accord:
See paragraph 279.

Québec's specificity and free trade:
See paragraph 296.

••• Constitutional reform process

276. Québec objects to the fact that the 1981 patriation was used as a pretext to substantially amend the Canadian constitution, despite Québec's objections and in disregard of its historic rights.[296]

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[293] Opening speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs at the Symposium "Rebuilding the Relationship: Québec and its Confederation Partners," Mont-Gabriel, May 9, 1986, p. 8 (See part 2 of this document).

[294] *Ibid.*, (quotation) p. 15.

[295] Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, "L'Accord constitutionnel de 1987 et le rapatriement du Québec au sein du fédéralisme canadien," at a Symposium organized by the Canadian Bar Association on the 1987 Constitutional Accord, in *L'adhésion du Québec à l'Accord du Lac Meech. Points de vue juridiques et politiques*, Les Éditions Thémis, 1987, p. 190.

[296] Speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, Mont-Gabriel Symposium, May 9, 1986, p. 4 (See part 2 of this document).

277. No government of Québec of whatever political leaning could sign the *Constitution Act*, 1982 as it is currently worded. However, if certain changes were made, this constitutional law could be acceptable to Québec. These changes are: 1) explicit recognition of Québec as a distinct society; 2) guarantee of greater powers over immigration; 3) limitation of the federal spending power; 4) recognition of a *veto* power; and 5) Québec's participation in appointing judges to the Supreme Court of Canada.[297]

The distinct society as the primary generator of Québec's other conditions: See paragraph 275.

278. The 1987 Constitutional Accord (The Meech Lake Accord), a corrective agreement insofar as it enabled Québec to resume its place as a major and distinct partner in the federation, ends Québec's constitutional isolation. It completes the patriation process initiated in 1981-1982 and restores the very foundations of federalism by ensuring that the governmental partners give their full and willing accord to the basic constitutional document by which they are governed.[298]

279. In substance, the Constitutional Amendment, 1987, includes the following elements:[299]

1) It stipulates that any interpretation of the Constitution must be consistent with the recognition of these two points: that Québec forms a distinct society within Canada and that the legislature and government of Québec are mandated to protect and promote this distinct character; that linguistic duality is a basic characteristic of Canada, a characteristic for whose protection Parliament and the legislatures are responsible.

2) It stipulates a procedure, that can be written into the Constitution, for negotiating accords relating to immigration, which, subject to Parliament's power to set national standards and objectives concerning the setting of general immigrant categories, in particular, immigration levels and the choice of categories of ineligible persons, allow a province to exercise new powers in this area.

3) It gives every province the right to opt out with fair financial compensation of any new shared-cost program established in a sector of exclusive provincial jurisdiction, provided the province institutes a program or measure compatible with national objectives.

4) It places under the principle of provincial unanimity certain constitutional amendments that, under the *Constitution Act, 1982*, required only the application of the general amending formula. These amendments affect proportional representation of the provinces in the federal Parliament, the powers of the Senate and the selection of Senators, appointments to the Supreme Court, the creation of new provinces and the extension of existing provinces.

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[297] Speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, Mont-Gabriel Symposium, May 9, 1986, p. 4-5 and p. 12 (See part 2 of this document).

[298] Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, "L'Accord constitutionnel de 1987 et le rapatriement du Québec au sein du fédéralisme canadien," in *L'adhésion du Québec à l'Accord du Lac Meech. Points de vue juridiques et politiques*, Les Éditions Thémis, 1987, p. 190.

[299] The Constitutional Amendment, 1987, and resolution of the Québec National Assembly, June 23, 1987 (Part 3: documents nos. 22 and 23). See also the speech delivered by Robert Bourassa (June 18, 1987) upon the tabling of the motion at the Québec National Assembly (See part 2 of this document).

In addition, the 1987 Constitutional Amendment guarantees the provinces the right to withdraw, with fair financial compensation, from any constitutional amendment that transfers provincial legislative powers to Parliament.

5) It stipulates, among other things, that three of the nine Supreme Court judges must be from Québec and that the Governor General in Council appoints only candidates proposed by the Québec government. Furthermore, the same procedure would apply to appointments to fill Senate vacancies.

280. The issues Québec would like to see resolved during the second round of constitutional discussions will obviously reflect our traditional demands and, in conjunction with the gains realized in 1987, will seek to widen the scope of Québec's role in the Canadian Federation.[300]

••• Constitutional amending procedure

281. The Constitutional amending procedure included in the *Constitution Act, 1982* is fundamentally unacceptable to Québec in that it fails to make provision for financial compensation in every case of opting out, and it allows changes to federal institutions and the creation of a new province despite Québec's objection.[301]

Constitutional amending procedure and Meech Lake Accord: See paragraph 279.

••• Distribution of powers

a) Sectorial jurisdictions

282. Québec's cultural security must be guaranteed. Specifically, Québec must control every aspect of its immigration to maintain its francophone character, by using its power to balance or even reverse the trends pointing to a decline in its relative demographic weight in Canada.[302]

Immigration and Meech Lake Accord: See paragraph 279.

283. We must always bear in mind that agriculture is an area of shared jurisdiction between the federal government and the provinces [...]. The role of the federal government is of particular importance in issues of interprovincial and international trade [...]. On the other hand, of course, the provinces can exercise their right to intervene in the areas of financing, marketing, research, production assistance, and income stabilization. We would not agree to any measure that would jeopardize these fundamental rights.[303]

284. The Québec government intends to vigorously defend its powers and jurisdiction in the financial sector, while being aware of the need to harmonize its legislation with that of the federal government and the other provinces.[304]

Distribution of powers and free trade: See paragraph 295.

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[300] Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, "L'Accord constitutionnel de 1987 et le rapatriement du Québec au sein du fédéralisme canadien," in *L'adhésion du Québec à l'Accord du Lac Meech. Points de vue juridiques et politiques*, Les Éditions Thémis, 1987, p. 206.

[301] Speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, Mont-Gabriel Symposium, May 9, 1986, p. 11-12 (See part 2 of this document).

[302] *Ibid.*, p. 10.

[303] Draft speech by Michel Pagé, Minister of Agriculture, Fisheries and Food, Federal-Provincial Conference of Ministers and Deputy Ministers of Agriculture, Victoria, August 26-27, 1986, CICS, doc. 830-224/024, p. 2 (quotation).

[304] Minister responsible for Finance and Privatization, *La réforme des institutions financières au Québec: objectifs, principes directeurs et plan d'action*, Québec, October 1987.

b) Unilateral powers

285. The fact that the federal government can and intends to spend money in every area, whether or not they lie within its jurisdiction, has become intolerable. It is a sword of Damocles hanging over each province's policies regarding its social, cultural and economic development. It appears increasingly necessary that this spending power be made subject to provincial approval. Such a change would contribute significantly to improving the way the federal system operates.[305]

Federal spending power and Meech Lake Accord: See paragraph 279.

••• Individual and language rights

286. Québec intends to control language policy within its borders. Québec views the maintenance of its language, culture and institutions as essential to its survival as a distinct society. Therefore, the Québec government must be chiefly responsible for language policy within Québec and, in this area above all, Québec will attempt to secure the broadest possible authority It will not be willing to sacrifice its jurisdiction over language to an ideal of Canadian unity that does not incorporate very strong guarantees concerning the preservation of its distinct character.[306]

287. In certain highly controversial issues where it is difficult to identify clear and generally recognized principles, it was prudent to leave the last word to Parliament. Because of the delicate balance that must be preserved in such matters, Québec favours maintaining the override clause included in section 33 of the *Canadian Charter of Rights and Freedoms*.[307]

••• Institutions

288. The status of the Supreme Court as final arbiter in constitutional debates, should be entrenched in the Constitution. Further, its composition must reflect the Canadian duality in terms of legal systems, and contribute to both preserving Québec's distinct character and recognizing its unique contribution to Confederation. The Court's composition is of great concern to Québec. Constitutional guarantees ensuring adequate representation on the Court and significant participation in the selection process applied to judges from Québec are essential.[308]

Supreme Court of Canada, Senate and Meech Lake Accord: See paragraph 279.

••• Intergovernmental policy

a) Conducting intergovernmental relations

289. Québec offers six proposals to help strengthen the Canadian federation: 1) on-going discussions to establish the conditions for Québec's endorsement of a new constitutional accord; 2) a substantial increase in regional economic development efforts; 3) the

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[305] Speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, Mont-Gabriel Symposium, May 9, 1986, p. 10 (See part 2 of this document).

[306] Speech by Claude Ryan, Minister of Education, Higher Education and Science and Minister responsible for the administration of the French Language Charter, Kingston, December 8, 1989, p. 1-2 (quotation; see also part 2 of this document).

[307] *Ibid.*, p. 8 (quotation).

[308] Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, "L'Accord constitutionnel de 1987 et le rapatriement du Québec au sein du fédéralisme canadien," in *L'adhésion du Québec à l'Accord du Lac Meech. Points de vue juridiques et politiques*, Les Éditions Thémis, 1987, p. 201.

federal government's continued fulfilment of its constitutional commitment by means of equalization rather than by the implementation of new programs and the re-opening of fiscal arrangements as part of fiscal reform; 4) fair treatment of provinces receiving equalization by making appropriate corrections to the federal proposals in the near future; 5) provincial participation in tax reform, and ensuring the provincial presence in the consumer tax field does not decline; 6) and finally, inclusion in the priorities of each government of the means needed to enable women to achieve full economic equality.[309]

b) Financial aspects of federalism

290. The Québec government is of the view that the fiscal arrangements between the federal government and the provinces should be covered by a formal agreement between the two orders of government, which would endow them with a more permanent, stable and less arbitrary character than the current arrangements. It also demands that the federal government respect its financial commitments since, in the past, it made the decision to make transfer payments to the provinces rather than allow them sufficient tax room to assume their constitutional responsibilities in the areas of health and post-secondary education. Sufficient resources must be allocated to the provinces to enable them to uphold the principles of providing universal, accessible and free services. However, if the federal government is no longer capable of meeting its financial responsibilities in regard to health and post-secondary education, it should withdraw from these sectors and provide the provinces with compensation in the form of additional tax points.[310]

291. Québec protests against the federal government's unilateral changes to transfer mechanisms without prior negotiations with the provinces. The Québec government has no objection in principle to some degree of federal withdrawal, but it cannot agree that it should occur without negotiating with the provinces and fiscal compensation. In addition, it is paradoxical that the federal government should withdraw from various sectors while at the same time imposing national standards and applying financial penalties in cases where the provinces do not comply with these standards.[311]

Fiscal reform, financial arrangements and equalization payments: See also paragraph 289.

c) Aboriginal Nations

292. The Québec government's position concerning the aboriginal peoples is the following: 1) Québec favours constitutional recognition of the principle of aboriginal self-government within the framework of agreements negotiated with governments; 2) Québec is prepared to negotiate agreements and to make a commitment to that end; 3) Québec wants to be a party to all

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[309] Opening statement by Robert Bourassa, Annual First Ministers Conference, Vancouver, November 20-21, 1986, CICS, doc. 800-22/047, p. 8-9.

[310] Gérard D. Lévesque, Minister of Finance, 1986-1987 Budget Speech, *Schedule F*, p. 18, 19 and 21.

[311] *Ibid.*, p. 14.

negotiations on self-government concerning the aboriginal peoples living in Québec, and the resulting agreements must be approved by the National Assembly; 4) finally, Québec accepts that the agreements thus approved should receive constitutional protection.[312]

d) French-Speaking and Acadian Communities of Canada

293. Québec is resolved to support francophone minorities. However, its initiatives must take into account two principles inherent in the nature of the Canadian federal system:

a) it is up to each province, in the areas of jurisdiction assigned to it under the Constitution, to carry out its responsibilities toward its linguistic minority;

b) the federal government, instead of carrying out the duties assigned to the provinces by the Constitution, should concentrate on supporting provincial efforts to ensure effective recognition of the rights of the linguistic minority.[313]

294. The Québec government will work with francophones outside Québec as follows: Québec will contribute to strengthening francophone communities while respecting their priorities, their needs and their autonomy, in concert with its federal and provincial partners.[314]

e) Trade

295. Québec set conditions on its support for negotiations leading to the Free Trade Agreement between Canada and the United States: 1) It demanded that the existing distribution of legislative and constitutional powers be maintained. Among other things, the normal constitutional rules for the implementation of international treaties had to apply. 2) It also demanded that all the laws, programs and policies which, in the social area as well as communications, language and culture, contribute to Québec's specificity, be maintained. 3) It also wanted to preserve the room to maneuver it needs to develop and modernize its economy, with particular emphasis on small and medium-sized business. 4) It asked for assistance programs for workers and businesses in vulnerable sectors during the transition period. 5) It requested that the federal government and the provinces continue to cooperate in the management and implementation of the Accord as a whole. As such, it wants a standing federal-provincial consultation committee to be formed. Québec indicated, in fact, that it was prepared to change certain of its laws to implement the Accord in the areas within its jurisdiction.[315]

296. While in general, Québec supports the objectives of multilateral trade negotiations, its participation in developing

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[312] Opening speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, First Ministers Conference on Constitutional Issues of Interest to Native People, Ottawa, March 26-27, 1987, CICS, doc. 800-23/017, p. 4-5 (quotation).

[313] Speech by Claude Ryan, Minister of Education, Higher Education and Science and Minister responsible for the administration of the French Language Charter, Kingston, December 8, 1989, p. 11-12 (See part 2 of this document).

[314] Speech by Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, at the opening of the office of the Fédération des francophones hors-Québec, March 1988 (quotation).

[315] *Canada United States Free Trade Agreement: analysis from a Québec perspective*, ministère du Commerce extérieur et du Développement technologique, Québec, 2nd quarter, 1988, p. 39-42.

Canadian negotiating positions reflects its concern to defend the laws, programs and policies that, particularly in the social, cultural and communications areas, contribute to the specificity of Québec society. The government is also anxious to preserve the maneuvering room that will enable it to strengthen Québec's economic fabric and technological base.[316]

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[316] *Les négotiations commerciales multilatérales de l'Uruguay Round, perspective québécoise*, ministère des Affaires internationales, Québec, March 1990, p. 7.

SECOND GOVERNMENT OF ROBERT BOURASSA

(PERIOD FOLLOWING THE FAILURE OF THE MEECH LAKE ACCORD, JUNE 22, 1990 TO JANUARY 11, 1994)

Daniel Lessard

Source: Archives nationales du Québec

••• Status of Québec

297. English Canada must clearly understand that, regardless of what is said or done, Québec is today and always will be a society that is distinct, free and able to assume its destiny and development.[317]

298. On September 4, 1990, the National Assembly adopted An Act to establish the Commission on the Political and Constitutional Future of Québec (Bélanger-Campeau Commission). The preamble of this law states that Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development. The preamble goes on to mention the need for redefining the political and constitutional status of Québec.[318]

299. The report produced by the Bélanger-Campeau Commission confirms that in the discussions and decisions that will be made regarding the political and constitutional future of Québec, two avenues must be considered in parallel: an in-depth reorganization of the current federal system or sovereignty for Québec. The other solutions would not answer the needs and aspirations of Québec society.[319]

300. The main idea behind the report and the recommendations of the Commission is that Quebecers themselves must make the decisions which will affect their political and constitutional future. With this, the Québec government concurs. In good time, the people of Québec will be called upon to make major decisions for its future. On the one hand, the Québec government retains its initiative and its ability to assess the measures which will be in the best interest of Québec. On the other hand, the National Assembly remains sovereign to decide on any referendum question and, if necessary, to adopt the appropriate legislative measures.[320]

301. On June 20, 1991, the Québec National Assembly adopted An Act respecting the process for determining the political and constitutional future of Québec ("Bill 150"). The preamble of this law reiterates that Quebecers are free to assume their own destiny, to determine their political status and to assure their

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[317] Speech by Robert Bourassa upon the rejection of the Meech Lake Accord, Québec National Assembly, *Journal des débats*, June 22, 1990, p. 4134 (quotation [Translation]; see part 2 of this document).

[318] Q.S. 1990, c. 34 (Part 3: document no. 24).

[319] Statement by the Prime Minister of Québec, Robert Bourassa, and Gil Rémillard, Minister responsible for Canadian Intergovernmental Affairs, 1st addendum of the *Report of the Commission on the Political and Constitutional Future of Québec*, March 1991, p. 86.

[320] *Ibid.*, p. 87 (quotation).

economic, social and cultural development. The preamble also reaffirms the need for redefining the political and constitutional status of Québec.[321]

302. That the National Assembly, while recognizing the right of the federal Parliament to pass a referendum act, ask the federal government to abide by the process established in Bill 150 and, accordingly, not to initiate a pan-Canadian referendum that would affect the political and constitutional future of Québec, thus reaffirming the right of Quebecers to assume their own destiny freely and to determine alone their political and constitutional status.[322]

303. The government's preferred option remains a radically renewed federalism. A federalism in which Québec can give full expression to what it is and share what it has in common with the rest of Canada.[323]

304. The September 1991 federal proposals recognize the distinct society in the Constitution in two places. First in the Charter for its interpretation and second in a Canada clause that is also inserted in the Constitution. Nonetheless, the Canada clause must not be a disguised preamble as that could be the case in the federal proposals as they are worded. The distinct society concept must not be an artifice, but the recognition of an historic reality, since at least 1774, in the Québec Act. We do not want to be considered superior to the other provinces, we are not seeking any special privileges, we only want this clause to allow the courts to interpret the Canadian Constitution based on our reality, our history.[324]

Distinct society: See also paragraphs 310 and 313 (Charlottetown Accord).

305. From the analysis of the two options made by the parliamentary commissions set up under Bill 150, it demonstrates that sovereignty is legitimate and feasible. On a short-term basis, it points to costs both for Québec and the rest of Canada. It also indicates from testimonies that an economic association integrated into a political structure could lead to an efficient and harmonious collaboration for the better well being of both communities.[325]

••• Constitutional reform process

306. If anything can be concluded from the most recent constitutional negotiations, it is that the existing process of constitutional revision in Canada is discredited. The Québec government will not return to the negotiating table on constitutional issues.[326]

307. On September 4, 1990, the National Assembly adopted An Act to establish the Commission on the Political and Constitutional Future of Québec. This is an extraordinary commission bringing together representatives from the Québec National Assembly, society in general and Québec representatives from the House of Commons. Its mandate is to study and analyze the political and constitutional status of Québec and to formulate recommendations to this end.[327]

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[321] Q.S. 1991, c. 34, amend. by Q.S. 1992, c. 47 (Part 3: documents nos. 25 and 28).

[322] Resolution of the Québec National Assembly dated November 27, 1991 (quotation; part 3: document no. 26).

[323] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, before a banquet of the Chambre de Commerce d'Anjou, Montréal, January 15, 1992, p. 8 (quotation).

[324] *Ibid.*, p. 9-10.

[325] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 8 (See part 2 of this document).

[326] Message to the people of Québec by Prime Minister Robert Bourassa, June 23, 1990 (See part 2 of this document).

[327] Q.S. 1990, c. 34 (See part 3: document no. 24).

308. Québec can no longer accept being one amongst eleven in the constitutional forum. We say no to a constituent assembly or any other form of negotiation that will put Québec face to face as one amongst eleven.[328]

309. Following the Bélanger-Campeau Commission's report, on June 20, 1991 the National Assembly adopted An Act respecting the process for determining the political and constitutional future of Québec, which provided for the holding in June or October 1992 of a referendum on the sovereignty of Québec and implemented two committees, one to examine matters relating to the accession of Québec to sovereignty and the other, to examine any offer of a new constitutional partnership.[329]

310. The principles Québec refers to in the current constitutional debate are:

1) The substance of the five conditions included in the Meech Lake Accord cannot be altered.

2) The powers of the National Assembly cannot be reduced without its consent. Québec must be able to say "No" to any constitutional amendment affecting the powers of the National Assembly as well as the institutions and main features of the Canadian federation. No Québec government can agree to a constitutional accord that does not include a *veto*.

3) Constitutional recognition of Québec as a distinct society is indispensable. The concept cannot be an empty shell. It must have significant political and legal consequences.

4) Québec shares the objective of a stronger and more dynamic economic union. We must look for ways that draw on intergovernmental harmonization and joint consultation to develop the Canadian economic union. The means proposed in September 1991 by the federal government are disproportionate compared to the objectives.

5) A new distribution of powers is needed to clearly confirm Québec's areas of jurisdiction. This distribution must lead to a more effective, more cooperative federalism that will reduce overlapping and provide Québec with the means it needs to protect and promote its identity.

6) The federation must be renewed constitutionally. In some areas of joint jurisdiction, simple administrative arrangements maybe useful, but they are not sufficient for the overhaul of the distribution of powers we need. It is a known fact that administrative agreements remain at the mercy of federal legislation. They are insufficient. No level of government benefits from a systematic recourse to administrative agreements.

7) The territorial integrity of Québec must be respected. The government cannot accept having entrusted to the courts the role of specifying the nature and conditions for applying the rights of Aboriginal peoples to self-government; Québec is prepared to recognize Aboriginal Peoples' right to self-government,

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[328] Speech by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, Deliberations concerning Bill 150, Québec National Assembly, *Journal des débats*, June 12, 1991, p. 9115 (quotation) [Translation].

[329] Q.S. 1991, c. 4, as assented to on June 20, 1991 (Part 3: document no. 25).

but within the framework of duly negotiated agreements between the Aboriginal Peoples and the government of Québec.[330]

311. The deadline set forth by Bill 150 should not be considered a sword of Damocles hanging over the head of Canadians. Quebecers have given themselves this instrument to finally put a stop to constitutional uncertainties and to build their future with serenity. Bill 150 is no bluff.[331]

312. The Charlottetown Accord is concluded on August 28, 1992.[332] On September 8, 1992, the Québec National Assembly adopted An Act to amend the Act respecting the process for determining the political and constitutional future of Québec, which replaces the referendum on Québec sovereignty by a referendum on this agreement.[333]

313. The Charlottetown Accord constitutes the most complete and substantial basis for constitutional reform that has ever been presented by a government of Québec following negotiations with the federal government and the other provinces. It reflects two major concerns that have always been significant for Québec: its security as a society, a people and its means for development as the distinct society that it is.

1) The Accord has a Canada Clause divided into three parts.

   In the first part, the clause refers to the fundamental values that Canadians and Quebecers share in common: liberty, democracy, fundamental rights, equality of women and men, attachment to the fact that there are Aboriginal Peoples, attachment to the fact that there are English and French-Speaking Canadians, and to the fact that Québec is a distinct society within Canada.

   The second part of this Canada Clause states that: "The role of the legislature and Government of Québec to preserve and promote the distinct society of Québec is affirmed." Nowhere else in the Canada Clause is the role of a government mentioned. This essentially dynamic role of Québec institutions to preserve and promote the distinct society were not gratuitously put in this second paragraph of the clause.

   In its third part, the Canada Clause contains what is known as a protection clause, i.e. a ground level that ensures that vested rights cannot be touched, but that it remains possible to build on this solid ground level since it guarantees the "notwithstanding" clause.

2) The Accord guarantees Québec the selection of its immigrants, its proportion of immigration as well as its capacity for integration into Québec society, a constitutionalized guarantee that cannot be changed without the consent of Québec.

3) It grants Québec a guarantee of three of the nine justices of the Supreme Court of Canada and protects the jurisdiction of the latter.

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[330] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, before a banquet of the Chambre de Commerce d'Anjou, Montréal, January 15, 1992, p. 9-11; Speaking notes for Gil Rémillard at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 2-7 (See part 2 of this document).

[331] Speaking notes for the Whistler Meeting, *ibid.*, p. 8 (quotation).

[332] *Consensus Report on the Constitution*, Charlottetown, August 28, 1992 (Part 3: document no. 27).

[333] Q.S. 1992, c. 47 (Part 3: document no. 28).

4) As regards federal spending power, it recognizes Québec's right to opt-out with compensation from shared-cost programs. As for exercising the spending power in provincial areas other than through shared-cost programs, a framework will be implemented by the first ministers. The principles of this framework will be constitutionalized. It should specify that the exercising of the spending power must respect provincial priorities.

5) Under the Accord, Québec recovers a right of *veto* over the Senate and the House of Commons where, in addition, it is guaranteed 25% of the seats. Québec has a right of *veto* over the entry of new provinces and, consequently, recovers an absolute right of *veto* over the amending formula. There is also a right of veto over the distinct society and a right of *veto* over the "notwithstanding" clause.

6) The Accord provides for a Senate that will be equitably equal in that each province will have six senators, the Yukon territory will have one and the Northwest Territories, also one. The senators may be appointed or elected either directly or indirectly, i.e. it will be up to the provinces to decide, and this will be in the Constitution. The Québec National Assembly will therefore be able to elect its senators. The new Senate could have been called the federation chamber. The transformation of its powers will make it more representative of the provinces' interests. The new Senate will allow Québec in some ways to extend its political action to level of this new institution of the federal Parliament.

7) The Accord acknowledges in constitutional terms the right of Aboriginal Peoples to self-government. Québec's territorial integrity is ensured. Limits are set so that autonomous aboriginal governments may exercise their authority based on the respect of essential provincial and federal laws for respecting peace, order and good government. Resorting to the courts will be possible in cases of difficult negotiations.

8) Under the Accord, six sectors fall into exclusive provincial jurisdiction: forestry, mining, tourism, housing, recreation, municipal and urban affairs. Forestry and mining were already under provincial jurisdiction. As for the other four sectors, it was said that they are attached to provincial jurisdiction over property and civil rights. Yet, since these sectors were not expressly mentioned, the federal government also claimed its own jurisdiction over them. The Agreement ends this dispute. It also provides agreements for withdrawals with entitlements to financial compensations, agreements that could be reviewed and adjusted every five years.

The Accord recognizes two other extremely important exclusive areas. First in cultural affairs, while recognizing federal jurisdiction in matters of national institutions and a federal role to be played nationally for a Canadian culture. There should also be a federal-provincial agreement to ensure Québec's prevalence over culture within its territorial boundaries. The other recognized exclusive power is labour training. The Québec government did not request jurisdiction over unemployment insurance owing to the costs of a billion dollars that this transfer would have caused. Nonetheless, what Québec does obtain, especially, is the possibility of administering the unemployment insurance fund.

The Agreement also touches upon another extremely important jurisdiction: regional economic development. The current Québec-Canada agreement in this area could be enshrined in the Constitution and improved, in connection with the framework to be set up for the spending power and respect for provincial priorities. Lastly, in the field of telecommunications, Québec could through an agreement with the federal government, appoint commissioners to the Canadian Radio-Television and Telecommunications Commission.[334]

314.On October 26, 1992, in the referendum held in Québec on the Charlottetown Accord, the No option carried the day with 56.68% of electoral votes and the Yes option obtained 43.32%.[335]

••• Constitutional amending procedure

315.The Constitution Act, 1982 indeed provides for a right to opt out, but it carries with it financial compensation only with respect to transfers related to culture and education. The possibilities of such financial compensation should be broadened so as to include all cases of opting out, as provided in the Meech Lake Accord. As for the matters dealt with in section 42 of the Constitution Act, 1982 (central institutions, the Senate and the creation of provinces), Québec, as one of the major partners in the federation, is entitled to demand that it have a say in any amendment concerning those matters, since they are at the very heart of the federal compromise of 1867.[336]

Veto: See also paragraphs 310 and 313 (Charlottetown Accord).

••• Distribution of powers

a) General principles

316.The search for greater effectiveness must also guide us in establishing a new division of powers that will clearly delineate the jurisdictions of the two levels of government. We should find in the new constitution a division of power establishing a more functional, more cooperative federalism that will reduce overlaps and guarantee that Québec and the other provinces have the means necessary to protect and promote their distinctive characteristics.[337]

317.It is the essence of federalism to meet the different needs of the federal partners. [...] Asymmetry and federalism are compatible. Without overestimating its implications, we may view asymmetry as an important means of establishing a division of powers likely to satisfy both Québec and the other provinces, while consolidating the foundations of the federal government in regard to its national responsibilities.[338]

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[334] Speech by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, on the Charlottetown Accord, Québec National Assembly, *Journal des débats*, September 3, 1992, p. 3087-3094.

[335] See Directeur général des élections du Québec, *Rapport des résultats officiels du scrutin. Référendum du 26 octobre 1992*, 1992, p. 49 (see extract of the Official Report and the text on the referendum question in part 3: document no. 29). The Charlottetown Accord was also rejected by the rest of Canada by a separate referendum held under federal legislation on October 26, 1992. In the rest of Canada, the No option carried the day with a 54.3% result of votes validly cast, the Yes option obtained a result of 45.7%. See Chief Electoral Officer of Canada, *The 1992 Federal Referendum: A Challenge Met*, 1994, p. 58.

[336] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 4 (See part 2 of this document).

[337] *Ibid*, p. 5 (quotation).

318. The distribution of legislative powers [...] must refer to two fundamental principles [...]: that we may have the legislative tools for expressing who we are as a society, as a people, in social and cultural matters as in the economy, and that we may also have an efficient federation to avoid duplications.[339]

The need for a constitutional, rather than an administrative reform: See paragraph 310.

b) Sectorial jurisdictions

319. In the current constitutional framework, the government of Québec does not have all the needed powers for attaining by itself the objectives of its political position in matters of immigration and integration. This is why Québec seeks to enlarge its jurisdictions in order to increase not only its ability to act, but also the efficiency of its actions.[340]

320. [...] Since 1986, the Québec Government has been seeking constitutional recognition of Québec's exclusive powers on establishing the criteria, selecting independent immigrants and extending its powers to on-site selection. Similarly, Québec is seeking the guarantee of receiving a number of immigrants proportional to its share of the Canadian population, with the right to exceed this number by 5 % to maintain its weight within the Canadian Confederation. The Québec government holds that these minimal demands remain essential for an immigration policy the aim of which is to develop Québec as a distinct society.[341]

321. To align all action in integration of newcomers with Québec's objectives, Québec has since 1986 been demanding exclusive control over immigrant reception services and their cultural, linguistic and economic integration, along with reasonable financial compensation.[342]

Immigration: See also paragraphs 310 and 313 (Charlottetown Accord).

322. In the current constitutional context, as Minister of Cultural Affairs, I want to restate Québec's need to have prevalence in cultural matters within its territorial boundaries. The issue of culture is of fundamental importance for Québec. In this respect, it is essential that be recognized to its government the exclusive powers it needs to assume its responsibilities.[343]

Culture and Charlottetown Accord: See paragraph 313.

323. Faced with federal initiatives in the field of education undertaken in the name of the Canadian economy's competitive edge, Québec's positions are as follows:

- Québec is fully prepared to discuss businesses' competitive edge and the means for reviving the economy within the framework of a strategy for economic prosperity, but any impact on the educational objectives must remain within the exclusive power of Québec, especially as regards post-secondary education and vocational training.

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[338] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 5-6 (quotation) (See part 2 of this document).

[339] Declaration by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs in the debate on the status of constitutional negotiations, Québec National Assembly, *Journal des débats*, Commission permanente des institutions, May 29, 1992, p. CI-530 (quotation) [Translation].

[340] Message by Robert Bourassa, in ministère des Communautés culturelles et de l'Immigration, *Let's Build Québec Together: A policy statement on immigration and integration*, 1990, p. III.

[341] Ministère des Communautés culturelles et de l'Immigration, *Let's Build Québec Together: A policy statement on immigration and integration*, 1990, p. 24 (quotation).

[342] *Ibid.*, p. 49 (quotation).

[343] Message by Liza Frulla-Hébert, ministère des Affaires culturelles, *Québec's Cultural Policy: Our culture, Our future*, 1992, p. vii-viii (quotation) [Translation].

- In education, it is up to Québec to decide on the management, distribution and utilization of resources allocated to this sector.
- As regards common objectives (or national ones) in education, it is up to the provinces—within their exclusive powers—to define them, as it is up to them to decide on the opportunity to answer the needs identified by the federal government in the exercising of its own jurisdictions and whose solution falls within the field of education.[344]

324.Québec's constitutional basis in education reflects a lively socio-cultural reality and evokes the bonds of close symbiosis between universities, the community and their government. Québec cannot denounce this "strategic alliance" and invite the federal government to step in and orient the development of a university system that is so closely associated with the development of Québec society. This does not mean that Québec refuses to associate itself with major knowledge and research networks or wants to dissuade its researchers from competing with the best in continental or global contests. It just means that when the issue is one of basic catalytic actions, Québec cannot see someone being authorized to come in from the outside and decide what its priorities are to be. This should not be construed that Québec refuses fiscal or even financial transfers—it actively seeks them; it's more a question that it sees such amounts being deposited into the province's general fund, with even less strings attached that would be tantamount to having its priorities set.[345]

325.As other modern societies, Québec must define its own labour orientation policy on labour force adjustments. Despite the meritorious efforts for coordinating federal government actions with those of the Québec government in labour force issues, the complexity of the programs and the confusion they generate have continuously increased over the years. There is in Québec a consensus on the urgent need to put an end to this disorder by appointing just one administration, the government of Québec, to assume the responsibilities and budgets pertaining to the labour force adjustments. In this context, the government of Québec defends the following position:

- That Québec alone become the sole responsible party for labour force adjustments policies and vocational training within its territorial boundaries, and the only administration entrusted with developing and administering in cooperation with its social partners training, adjustments and job-assistance programs.
- That for this purpose, Québec patriate all federal budgets, including those funded from unemployment insurance and assigned to labour force programs.

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[344] *Le Québec et les universités, partenaires dans une société distincte*, notes for a speech by Lucienne Robillard, Minister of Higher Education and Science, at the closing banquet of the General Meeting of the Association of Universities and Colleges of Canada, (AUCC), Vancouver, March 4, 1992, p. 5.

[345] *Ibid*, p. 6.

- That the government of Québec be responsible within its territorial limits for the administration of unemployment insurance programs while maintaining the responsibility of the federal government regarding the regime's law and regulations.[346]

326. The control over all the instruments used for labour force adjustments and vocational training policies can be done within the current constitutional framework.[347]

The Charlottetown Accord and labour force issues: See paragraph 313.

327. The Québec government's guidelines in the field of economic and regional development, plus its relationship with the federal government are in this respect:

- The primacy of Québec's responsibility for the planning and setting of economic development and regional priorities within its territorial limits;
- The need for using procedures, structures and programs set up or approved by Québec;
- Québec predominance over all programs and projects falling under its jurisdiction.[348]

Economic development and the Charlottetown Accord: See paragraph 313.

328. Québec has never suggested that it would renounce or delegate any part of its responsibilities in the field of stock exchange securities.[349]

329. In making a distinction between international affairs and foreign policy, and in choosing an approach centred on Québec's interests, the foundations and impetus of the resulting policy are not likely to be brought into question. Indeed, in a modern context no government can meet its domestic responsibilities effectively without taking the international dimension into account, and it must act within this framework, according to its means.[350]

330. Under the Canadian Constitution, social and health care issues indisputably fall within the exclusive power of the provinces. Over the past twenty-five years, the government of Québec has remarkably exercised its responsibilities and it has endowed the health care and social affairs sectors with high-quality administrations. These success stories eloquently prove—and the citizens of Québec have every reason to agree—that Québec would have nothing to gain by a new distribution of powers in these sectors. Until today, they have been under exclusive provincial jurisdiction and, for the best interests of Quebecers, they are there to stay.[351]

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[346] Ministerial declaration by André Bourbeau, Minister of Labour, Income security and Vocational training, Québec National Assembly, *Journal des débats*, December 13, 1990, p 6316-6317; ministère de la Main-d'œuvre, de la Sécurité du revenu et de la Formation professionnelle, *Partners for a Skilled and Competitive Québec: Policy statement on labour force development*, 1991, p. 45-46; document dealing with Québec's position in the labour sector, Federal-Provincial-Territorial Conference of Ministers responsible for Labour Market Matters, Toronto, January 19 and 20, 1993, p. 3-4.

[347] Ministerial declaration by André Bourbeau, *ibid.*, p. 6317 (quotation) [Translation].

[348] Preliminary comments by Gil Rémillard during a credit analysis session 1992-1993 of the Minister responsible for Canadian Intergovernmental Affairs, Québec National Assembly, *Journal des débats*, Commission des institutions, April 30, 1992, p. CI-288.

[349] Letter from Louise Robic, Minister responsible for Finance, to Gilles Loiselle, Minister of State for Finance and Chairman of the Treasury Board of the government of Canada, January 13, 1993 (quotation) [Translation].

[350] Foreword by John Ciaccia, ministère des Affaires internationales, *Québec and Interdependence: Global Horizons. Elements of an international affairs policy*, 1991, p. viii (quotation).

[351] Ministère de la Santé et des Services sociaux, *Québec's Health and Social Services: Equitable Funding, Living within our Means*, 1991, p. 84.

Financing Health Care and Social Services: See paragraph 336.

331. By a unanimous resolution, the Québec National Assembly has strongly disapproved Bill C-13 respecting the federal environmental assessment process. The federal bill seeks to excessively extend cases of federal assessment, especially by integrating the exercising of the spending power. It is foreseeable that the duplicate assessment of projects in environmental issues will become the rule rather than the exception. The duplication of assessments could have a negative impact on economic development and public participation. It also creates the risk of legal uncertainty, which could lead to numerous litigations. All the provisions for cooperation or harmonization set forth in the bill contribute to subordinating Québec procedures to the federal process. The joint examination process is one that actually puts the provincial government under the supervisory authority of the federal government. The bill multiplies cases where federal domination and provincial subordination may occur. It must be accepted in principle that throughout Canada, there may be different or distinct assessment procedures, but all having the same value. It is on the basis of this principle that true cooperation will be instilled in the future.[352]

332. The [Canadian] Green Plan set alongside Bill C-13, appears in many ways as a deliberate strategy for dispossessing the provinces of their responsibilities in the field of environment and for ensuring federal takeover in this area. [...] In performing these two actions, the federal government has endowed itself with a kind of domination in the entire field of the environment, including that which was constitutionally reserved for the exclusive control of the provinces and for which Québec has for many years now exercised its responsibilities.[353]

Housing: See paragraphs 313 (Charlottetown Accord) and 337.

Forestry, mining, tourism, recreation, municipal and urban affairs: See paragraph 313 (Charlottetown Accord).

Economic union and distribution of powers: See paragraphs 310 and 341.

c) Unilateral powers

Federal spending power: See paragraph 310 and 313 (Charlottetown Accord).

••• Individual and language rights

333. The preamble of the Act establishing the Bélanger-Campeau Commission expresses, among other things, the following considerations:

- Whereas Québec has already demonstrated its respect for democratic values and individual rights and freedoms;
- Whereas Québec has recognized that Quebecers wish to see the quality and influence of the French language assured and to make it the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;

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[352] Speaking notes for Pierre Paradis, Minister for the Environment, before members of the Standing Senatorial Energy, Environment and Natural Resources Committee, Ottawa, June 16, 1992.

[353] *Ibid.*, p. 12-13 (quotation) [Translation].

- Whereas Québec intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the rights and institutions of the English-Speaking Community of Québec.[354]

••• Institutions

334. There must be a specific role for the Senate. In this context, the government of Québec is prepared to enter into discussions while always respecting the principle, which is fundamental for Québec, that there will be no diminishing of Québec's role regarding the Senate as with all other federal institutions.[355]

The reforming of federal institutions: See also paragraphs 310 and 313 (Charlottetown Accord).

Economic union (The federation council project) and Executive Federalism: See paragraph 341.

••• Intergovernmental policy

a) Conducting intergovernmental relations

335. The position of my government from now on is to negotiate bilaterally and not with eleven entities, to negotiate with the Canadian government that represents the entire population of Canada, bilateral negotiations between the government of Québec and the federal government. Obviously, we will have negotiations with other provinces on a bilateral basis. It is also obvious that we may decide to participate in some conferences where Québec's interests are at stake, but never on constitutional matters.[356]

b) Financial aspects of federalism

336. The financing of health care and social services will require a revision of federal-provincial collaboration based on the following two principles:

- Reestablishment of the federal transfers payments for the established programs financing (EPF)

Federal-provincial collaboration would be reaffirmed on the basis of renewed federal interest in common objectives pursued in health care. Federal contributions to EPF should be based upon economic indicators that take the evolution of expenditures into consideration.

- Reduction of the limits to the provinces' exercise of responsibility.

It seems reasonable to ask the federal government, in following the example of all participants, to contribute to solving the deadlock in financing by refraining from setting rules on financial and fiscal transfers that restrict the full exercising of their responsibilities by the provinces, especially with regard to the defining of the basket of insured services and access to services.[357]

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[354] An Act to establish the Commission on the Political and Constitutional Future of Québec, Q.S. 1990, c. 34 (See part 3: document no. 24); these elements were taken from the preamble of An Act respecting the process for determining the political and constitutional future of Québec, Q.S. 1991, c.34, amend. by Q.S. 1992, c.47 (See part 3: documents nos.25 and 28).

[355] Declaration by Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs on the government's position regarding proposals for reforming the Senate, Québec National Assembly, *Journal des débats*, April 15, 1992, p. 598.

[356] Message to the people of Québec by Prime Minister Robert Bourassa, June 23, 1990 (quotation [Translation]; see part 2 of this document).

[357] Ministère de la Santé et des Services sociaux, *Québec's Health and Social Services: Equitable Funding, Living within our Means*, 1991, p. 88-89.

337. The unilateral withdrawal without prior consultation of the federal government from the Canada-Québec Global Agreement on Social Housing is a rather unacceptable manner for proceeding between two governments. Furthermore, the announced budget freeze of the Canada Mortgage and Housing Corporation (CMHC) will perpetuate a situation, which as regards federal transfers, is unfair for Québec. Indeed, the CMHC's share of budgetary expenditures that are made by Québec hardly exceed 19%. This is on the one hand genuinely below the proportion of really needy households living in Québec. It is also on the other, quite lower than the demographic weight of Québec as contrasted with the whole of Canada. The freezing of the CMHC's budget and the discontinuance of any new commitment threatens to forever eliminate any possibility Québec would have of hoping to catch up in making in its share of the federal expenditures intended for social housing. The current federal withdrawal penalizes Québec far too heavily and cannot be done without some adequate financial compensation.[358]

c) Aboriginal Nations

338. The preamble of the Act to establish the Commission on the Political and Constitutional Future of Québec bears the following message: Whereas Québec recognizes the right of the Amerinds and the Inuit of Québec to preserve and develop their specific character and to assure the progress of their communities [...].[359]

339. The territory of a province may not be changed without the province's consent. This principle is already entrenched in section 43 of the Constitution Act of 1982, and must be abided by in any constitutional agreement recognizing the right of the Aboriginal peoples to self-government. The Québec National Assembly has recognized the principle of Aboriginal self-government in the framework of agreements with the governments.[360]

Self-government and territorial integrity:
See also paragraphs 310 and 313
(Charlottetown Accord).

d) French-Speaking and Acadian Communities of Canada

340. The preamble of the Act to establish the Commission on the Political and Constitutional Future of Québec bears the following message: Whereas Québec supports French-Speaking Communities outside Québec and contributes to the International French-Speaking world: [...].[361]

e) Trade

341. Québec shares the objective of a stronger and more dynamic economic union and is in favour of the free circulation of goods, persons, capital and labour. It favours the elimination of

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[358] Letter from Claude Ryan, Minister of Municipal Affairs, responsible for Housing, to Elmer Mackay, Minister responsible for the Canada Mortgage and Housing Corporation, Québec, June 1, 1993.

[359] Q.S. 1990, c. 34 (quotation; see part 3: document no. 24); see also the preamble of An Act respecting the process for determining the political and constitutional future of Québec, Q.S. 1991, c. 34, amend. by Q.S. 1992, c. 47 (See part 3: documents nos. 25 and 28).

[360] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 6 (quotation; see part 2 of this document).

[361] Q.S. 1990, c. 34 (quotation; the statute is reproduced in part 3, see document no. 24); see also the preamble of An Act respecting the process for determining the political and constitutional future of Québec, Q.S. 1991, c. 34 amend. by Q.S. 1992, c. 47 (See part 3: documents nos. 25 and 28).

obstacles to the free circulation of economic resources. We must look for ways that draw on intergovernmental harmonization and joint consultation to develop the Canadian economic union. The federal proposals of September 1991 are in this respect disproportionate compared to the objectives that are to be pursued. Specifically, the courts should not manage the economy or intervene in the drafting or implementation of economic policy. Nor should federal authorities be given unlimited powers that could destroy the powers of the provincial legislatures.

Furthermore, do we need a new institution, the Council of the Federation, when we can very easily get along with existing institutions? For example, the First Ministers' Conference on the Economy, as was stipulated in the Meech Lake Accord, could be constitutionalized and supplemented by a permanent secretariat, which is already in place and is responsible for preparing federal-provincial conferences. We would thereby respect the principles of executive federalism, which is one of the main characteristics of our Canadian Federation and which directly involves the provincial first ministers in the drafting of national policies, through federal-provincial conferences.[362]

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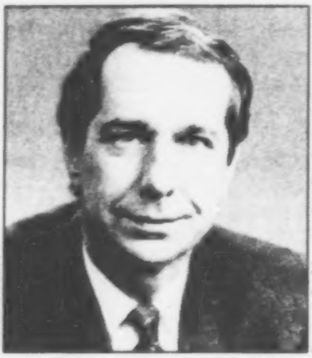
[362] Speaking notes for Gil Rémillard, Minister of Justice and Minister responsible for Canadian Intergovernmental Affairs, before a banquet of the Chambre de Commerce d'Anjou, Montréal, January 15, 1992, p. 10; speaking notes for Gil Rémillard at the Canadian Bar Association Meeting in Whistler, February 24, 1992, p. 4-5 (See part 2 of this document).

GOVERNMENT OF DANIEL JOHNSON, Jr.,

(JANUARY 11. 1994 TO SEPTEMBER 26. 1994)



Bernard Vallée

Source: Archives nationales du Québec

••• Distribution of powers

a) General principles

342. The government of Québec shares the objectives to make policies and programs more efficient and accessible, to come to an agreement on the most suitable order of government for providing a service, while taking into consideration the priorities and conditions specific to each province.[363]

b) Sectorial jurisdictions

343. Some major initiatives on the part of the federal government in fields of provincial responsibility such as health care and education seem difficult to reconciliate with the objectives of efficiency and subsidiarity that should prevail, especially in a context of rarified financial resources.[364]

344. The elimination of duplication in the labour force sector is essential. An agreement regarding labour force, which suits our priorities and the specific conditions that prevail here, represents one of the first accomplishments that would demonstrate that we are seeking to reduce duplications.[365]

345. That the Québec National Assembly petition Jean Chrétien and the liberal federal government to respect the unanimous consensus of all participants regarding Québec's need to exclusively exercise the jurisdictions attaching to labour training.[366]

346. Québec has never favoured an increased federal presence in the sector of stock exchange securities, an area that is strictly a provincial jurisdiction. On the contrary, it has regularly manifested its opposition to federal initiatives in this matter [...]. Federal regulatory action would be untimely both constitutionally as well as for boosting efficiency. Such regulatory action would result in the duplication of rules and surveillance, then inevitably in heavier administrative and financial charges for issuers, investors and intermediaries.

[...]

For several years now, Québec has given top priority to the harmonization of its regulatory action applicable to the providing of financial services in Canada and abroad, in the same way as it has given priority to the decreasing of costs inherent in this regulatory action and the coherence of the latter from one sector to another. These policies bear witness to the priority that we give to the efficient operations of the market, while ensuring

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363. Letter from Daniel Johnson, Prime Minister of Québec, to Marcel Massé, President of the Queen's Privy Council for Canada, Minister of Intergovernmental Affairs and Minister responsible for Public Service Renewal, Québec, February 15, 1994.

364. *Ibid.* (quotation) [Translation].

365. *Ibid.*

366. Unanimous resolution of the Québec National Assembly dated April 14, 1994.

that the specific aspects of Québec be taken into account.[367]

Internal Trade and Distribution of Powers:
See paragraph 351.

c) Unilateral powers

347. The reducing of duplication must go hand in hand with setting boundaries for federal spending power, if we want both orders of government to exercise their responsibilities in the most efficient manner possible. This objective must also favour the fact that each government act clearly within the limits of the powers assigned to it under the Constitution.[368]

••• Intergovernmental policy

a) Financial aspects of federalism

348. Québec has for many years sought a reform of transfers to the provinces in order that they be adapted to the financial and budgetary realities of the 1990s and that they return to a certain number of basic objectives:

- improving the balance between the responsibilities assumed by the governments and the fiscal resources at their disposal;
- improving the redistribution of wealth in Canada;
- increasing the efficiency of the Canadian public sector.[369]

349. With regard to the issue of harmonizing federal and provincial taxation policies, Québec is prepared to collaborate on improving how the tax systems operate, but with the certainty of keeping its autonomy in determining Québec's fiscal policy.[370]

350. The ceiling on equalization payments creates a widening gap as regards the objective set forth in the Constitution, which is to give provinces sufficient revenues so that they may offer public services of a roughly comparable quality and fiscal level.[371]

b) Trade

351. With the federal government, the governments of the other provinces and territories, the government of Québec is a signatory to the Agreement on Internal Trade whose preamble states the following resolutions, namely to:

> PROMOTE an open, efficient and stable domestic market for long-term job creation, economic growth and stability;
>
> REDUCE and eliminate, to the extent possible, barriers to the free movement of persons, goods, services and investments within Canada;
>
> PROMOTE equal economic opportunity for Canadians;
>
> ENHANCE the competitiveness of Canadian business;

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[367] Letter from Daniel Johnson, Prime Minister of Québec, to Marcel Massé, President of the Queen's Privy Council for Canada, Minister of Intergovernmental Affairs and Minister responsible for Public Service Renewal, Québec, February 16, 1994 (quotation) [Translation].

[368] Letter from Daniel Johnson, Prime Minister of Québec, to Marcel Massé, President of the Queen's Privy Council for Canada, Minister of Intergovernmental Affairs and Minister responsible for Public Service Renewal, February 15, 1994 (quotation) [Translation].

[369] Press release entitled *Finance Ministers Conference*, André Bourbeau, Minister of Finance, Federal-Provincial Conference of Finance Ministers, Montréal, January 21, 1994, (quotation) [Translation].

[370] *Ibid.* (quotation) [Translation].

[371] Statement by André Bourbeau, Minister of Finance, press release entitled *Renouvellement de la péréquation*, Federal-Provincial Conference of Finance Ministers, Montréal, January 21, 1994.

CONSULT on matters related to internal trade;

RECOGNIZE the diverse social, cultural and economic characteristics of the provinces; and

RESPECT the legislative authorities of Parliament and the provincial legislatures under the Constitution of Canada.[372]

First of all, the Agreement defines the operating principles governing the openness of the Canadian market. They are based on the concept of free movement of persons, goods, services and investments. Secondly, it lays down the general rules that must apply, unless otherwise provided, to all eleven sectors covered: public procurement, investment, labour mobility, consumer-related measures and standards, agricultural and food goods, alcoholic beverages, natural resources processing, energy (under negotiation), communications, transportation and environmental protection. From an institutional standpoint, the AIT provides for the implementation of binding dispute resolution procedures, as well as for the creation of a Committee of Ministers on Internal Trade and a permanent body called the Internal Trade Secretariat.

Lastly, chapter 18 of the AIT deals with a series of general provisions, and lists, among other things, a number of full or partial exceptions several of which are important for Québec such as regional development, culture, taxation and financial sectors.

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[372] *Agreement on Internal Trade*, July 18, 1994.

GOVERNMENT OF JACQUES PARIZEAU

(SEPTEMBER 26, 1994 TO JANUARY 29, 1996)

Éric Parizeau

Source: Collection Assemblée nationale

••• Status of Québec

352. Québec's project for accession to sovereignty along with an offer for a new economic and political partnership with Canada.[373]

The government of Jacques Parizeau was elected on a platform of holding a referendum on the accession of Québec to sovereignty. On December 6, 1994, the government unveiled a draft bill on the sovereignty of Québec that was submitted to the general consultation of all Québec regions via the commissions on the future of Québec.

Following the report of the National Commission on the future of Québec, the government made public Bill 1 entitled An Act respecting the future of Québec (hereafter, the Bill) that was submitted to a referendum on October 30, 1995.

The Bill provided that Québec's accession to sovereignty be preceded by a formal offer of economic and political partnership with Canada. A one-year maximum deadline was provided for the negotiation of this partnership, subject to a decision otherwise by the Québec National Assembly.

The Bill authorized the National Assembly to proclaim the sovereignty of Québec once it would have approved the partnership treaty or, upon obtaining notification from the orientation and supervision committee for negotiations, once it would have realized that such negotiations would lead nowhere.

The offer to Canada of an economic and political partnership was to be based upon the three-party agreement of June 12, 1995 between three political parties: the Parti québécois, the Bloc québécois and the Action démocratique du Québec. This agreement involved the proposing of a treaty to Canada that would have provided appropriate measures for maintaining and improving the existing economic space, establishing rules for the division of federal assets and management of the common debt, creating joint political institutions required to administer the economic and political partnership.

The three-party agreement stated the priority sectors where a treaty would have to ensure that the partnership has the authority to act: customs union, free movement of goods, free movement of individuals, free movement of services, free movement of capital, monetary policy, labour mobility and citizenship. The Agreement also evoked the possibility—with some examples—that members would be free to make agreements in other areas of common interest. Lastly, the offer was to include the creation by treaty of joint political institutions needed for administering the partnership, specifically the creation of a council, a secretariat, an assembly and a tribunal for resolving disputes.

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[373] This paragraph presents a synthesis of the government project (See the bill and the three-party agreement forming the basis of this project in part 3: document no. 30). See also the address to the nation delivered by Jacques Parizeau on October 1, 1995 reproduced in part 2 of this document.

As regards Québec's accession to sovereignty, the Bill provided constitutional provisions, especially regarding the drafting of a new Québec constitution by a constituent commission to be ultimately submitted to the people of Québec for approval by referendum. The Bill lays down various constitutional provisions, among other things, guarantees regarding the rights of the English-Speaking Community and the aboriginal nations.

The Bill included other information dealing with the various terms of Québec's accession to sovereignty: territorial integrity, citizenship, legal tender currency, treaties, international organizations and alliances. Lastly, it stipulated transitional provisions. On October 30, 1995, the No option carried the day with a result of 50.58% and the Yes option obtained 49.42%.[374]

353. Jean Lesage called on us to be "Masters in our own Home," Daniel Johnson Sr. wanted "Equality or independence," Robert Bourassa proposed the "Distinct Society." One after another, our attempts to expand or just to preserve Québec's autonomy within Canada have run into increasingly firm rebuttals from our neighbours.

Twelve years ago, Pierre Trudeau's unilateral patriation dwindled the National Assembly's powers against our will, with a Constitution that Québec has never signed. Four years ago, the death of the Meech Lake Agreement sounded Canada's refusal in recognizing—albeit symbolically—our difference. As of today, the basic law of Canada does not recognize Québec as a nation, a people or even as a distinct society. A sad state of affairs. [...]

Three years ago, united as never before in the Bélanger-Campeau commission on the future of Québec, federalists and sovereigntists agreed on a common strategy and speaking as one, they rejected the present Canadian regime. Federalist members of the Commission wanted to give Canada one last chance for an in-depth renewal, failing which full sovereignty for Québec would then be proposed to Québecers in a referendum.

The scenario played itself out inexorably. Two years ago, the Charlottetown accord was submitted to the electorate and was beaten, both in Québec and in Canada. [...] That was to be Canada's last chance. [...]

The more time goes by, the more the Canadian majority is determined to act as though there is but one nation in Canada, as though all provinces are equal. [...] With the passing of time, decisions we wish to make as Quebecers will increasingly be blended into the great Canadian rush for uniformity. This is the Canada of tomorrow. Do we want to be a part of it?

[...]

[There must be] something. That something is sovereignty! But sovereignty that belongs to Quebecers from all regions, all social, linguistic, cultural and political origins.[375]

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[374] See Directeur général des élections du Québec, *Référendum 1995. Rapport des résultats officiels du scrutins*, 1995, p. 49 (an extract from this Official Report and the resolution of the Québec National Assembly on the referendum question are reproduced in part 3: document no. 31).

[375] Message by the Prime Minister Jacques Parizeau at the time of the publication of the draft bill on sovereignty and the announcement of the commissions on the future of Québec, December 6, 1994, p. 3-4.

••• Constitutional reform process

The impossible in-depth reform of Canadian federalism: See paragraph 364.

••• Distribution of powers

a) Sectorial jurisdictions

354.In the field of health care, not only has Ottawa stepped into a sector of exclusive provincial jurisdiction, but each of its initiatives goes against the will of the provinces with frequent harmful consequences regarding these provinces' orientations. Québec beckons the other provinces to put pressure on the federal government so that it ceases to encroach upon the health care sector. As for Québec, it intends to fully assume its exclusive power and responsibilities in this field, all the while especially preserving its prerogative for defining what is "medically necessary" for the purposes of the insured services. With regard to health care services, the provinces do not have to ask Ottawa for any orientation whatsoever; it is the provinces' responsibility to offer their respective citizenries the health services that they are entitled to expect. It therefore becomes obvious that the federal government must withdraw from this sector into which it is contributing less and less, and where its actions do not in any way improve accessibility to Canada's health care services.[376]

The Financing of Health Care and Social Programs: See also paragraphs 362, 365 and 366.

355.That the National Assembly reaffirm the consensus voiced [...] on 13 December 1990 and communicated in the following ministerial statement on manpower adjustment and vocational training:

- Québec must have sole responsibility of the manpower adjustment and vocational training policies within its territory and, consequently, must repatriate the moneys that the Federal Government allocates to Québec for these programmes;
- In the current constitutional context, and in view of offering better services to its clientèle, Québec must regain the control and the administration of the different services pertaining to employment and to manpower development and of all of the programmes that are likely to be financed by the unemployment insurance funds on the territory of Québec for this purpose, and must accordingly receive the sums that normally are attributed for taking over such responsibility;
- The Government of Québec and the representatives of the employers, the unions and the cooperative sector intend to oppose any initiative on the part of the Federal Government that would constitute interference in Québec's fields of jurisdiction.

And that, consequently, it request that the Government of Québec and the Minister of Employment immediately commence formal discussions with the Federal Government in order to ensure that this consensus and the promotion of the interests of the population of Québec are respected.[377]

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[376] Communiqué from the staff of Jean Rochon, Minister of Health and Social Services, Interprovincial Conference of Health Ministers, Vancouver, April 11, 1995.

[377] Unanimous resolution of the Québec National Assembly dated December 4, 1995 (quotation).

356. Considering the failure of federal administration over ground fish harvesting, Québec demands the administration of fisheries. The transferring of responsibility proposed by Québec cannot be carried out within the framework of a federal withdrawal aimed at reducing its operating costs. Rather it must be accompanied with the transferring of human and financial resources making it possible for Québec to take full responsibility for the future development of its fisheries industry.[378]

357. The fact that the federal government legislates in the field of clearing corporations, especially when applied to securities, constitutes an encroachment on an area of exclusive provincial jurisdiction that Québec cannot accept. This sector of jurisdiction has in fact been continuously and vigorously protected by all the successive governments of Québec.[379]

358. Québec does not share the viewpoint expressed in the parliamentary task force report on the commercialization of Canadian National in which local interest railways should come under federal authority. Québec has already made proposals to the other provinces for harmonizing their regulations regarding such railways.[380]

359. As for its airports, Québec must ensure that municipalities do not accept charges that are heavier than their financial capacities and that Québec's areas of jurisdiction are respected in agreements between the federal government and municipalities. The government of Québec neither can nor does it want to take the federal government's place in the role of financial support that the latter has always assumed, without first having the legislative, regulatory and fiscal control over the field of activity.[381]

360. Québec demands the regulatory, legislative and fiscal powers that will enable it to assume the passing of responsibilities and infrastructures in maritime transport.[382]

Transportation: See also paragraphs 374-376.

361. Federal intervention in housing is an encroachment in a field of provincial jurisdiction. The federal government has imposed an inflexible approach to intervening in housing. It has also subjected its financial participation to numerous administrative rules, objectives and Canada-wide criteria that make the planning of actions difficult in the Québec context. The presence of the federal government in this sector of activities has created many administrative overlaps that cause additional costs and that detract from the coherence of the interventions.[383]

Housing: See also paragraph 368.

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[378] Communiqués from the staff of Marcel Landry, Minister of Agriculture, Fisheries and Food, Federal-Provincial Conference of Fisheries ministers, Victoria, November 1, 1996, nos. 1 and 2. Communiqué no. 2 gives the most detailed information on the Québec proposal.

[379] Letter from Jean Campeau, Minister of Finance, to Paul Martin, federal Minister of Finance, Québec, August 14, 1995 (quotation) [Translation].

[380] Letter from Jacques Léonard, Minister of Transportation, to Douglas Young, federal Minister of Transportation, Québec, April 10, 1995.

[381] *La politique du gouvernement du Québec en matière d'infrastructures aéroportuaires*, ministère des Transports, December 6, 1995, p. 10.

[382] Communiqué from the staff of Jean Campeau, Minister of Transportation, regarding federal maritime policy, Québec, December 14, 1995.

[383] Government of Québec, *Coûts du fédéralisme pour le Québec dans le domaine de l'habitation*, an analysis made by the Société d'habitation du Québec, September 1995, p. 21.

b) Unilateral powers

362. The most detestable federal disengagement in the financing of social programs is that the federal government maintains its national standards in health care and seeks to impose new ones in other social programs.[384]

Federal actions and the financing of social programs: See also paragraphs 365-366.

Federal initiatives in housing: See paragraph 361.

••• Language rights

363. We have pledged [...] to enshrine in the Québec Constitution, in clear, unambiguous terms, the right of our English citizens to English schools, from kindergarten to university; the right for the English communities to control these schools. The right to have access to courts and the Québec National Assembly in English. It is obvious to us that the English Community must be a party to the elaboration of the Constitution of a sovereign Québec. And a formula has to be found to ensure that, from then on, no constitutional changes affecting that community shall be made without their consent. Also we want to continue ensuring by law the right to have medical care in the English language. When we will patriate our share of the CBC, we will maintain public TV and radio service in English.[385]

••• Intergovernmental policy

a) Conducting intergovernmental relations

364. The issue of Québec's participation in Canadian intergovernmental conferences fits into the following frame of reference:

- Québec intends on maintaining with the federal government those relationships needed for the proper operations of both governments, while heeding their respective jurisdictions.
- The interests of the people of Québec will serve as an essential guide for the government's actions whose objective is not to paralyze the federal system, nor to demand an in-depth reform since it is obvious since Meech and Charlottetown that this is impossible, but to find its way by accessing full political sovereignty.

The active presence of Québec will be ensured by participation at ministerial level in conferences or meetings dealing with shared jurisdictional issues. Other cases will be handled on a case-by-case basis by the government. Generally speaking, without practicing the empty chair policy, Québec will not participate actively on the ministerial level in conferences whose themes involve its exclusive power; generally, a member of the civil service will represent Québec as a technical participant or an observer.

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[384] Communiqués from the staff of Pauline Marois, Minister of Finance, Minister of Revenue and Minister responsible for the Family, Press Conference, Québec, December 12, 1995, no. 1.

[385] *A Frank Talk Between Neighbours About the Present and the Future*. Speaking notes for Jacques Parizeau before the Canadian Club, Toronto, November 22, 1994, p. 9-10 (quotation; see also Bill 1, An Act respecting the future of Québec reproduced in part 3: document no. 30).

Furthermore, Québec intends on participating actively in conferences or meetings whose agenda will include the reviewing of issues linked to opening markets or the "continentalization" of various activities.

Québec also intends on assessing the timeliness of its participation in conferences in light of their efficiency.[386]

b) Financial aspects of federalism

365. As regards social issues, Québec beckons the provinces to more firmly oppose the federal government's reductions for the financing of established programs by emphasizing that this unrealized gain should be compensated by the transferring of tax points.[387]

366. During the 1960s and 70s, the federal government incited the provinces to set up health care, social assistance and post-secondary education programs by offering to share the expenses 50-50 with them; today the same federal government is washing its hands of such commitments. Québec considers the current arrangement for financing social programs by the federal government to be unacceptable. It demands that the federal government withdraw from the financing of social programs and that it transfer the tax points to Québec that it uses to finance its actions in this sector. This demand constitutes a concrete answer to the problem of endless cuts in federal transfers.[388]

Federal disengagement and the need for a corresponding transfer of resources:
See also paragraphs 356, 359, 360 and 376.

367. A greater harmonization of sales taxes in Canada must not be carried out at the price of a loss of fiscal autonomy for Québec. For the government of Québec, fiscal autonomy is a fundamental question both regarding consumption tax as well as other areas of taxation, and it will never be abandoned. Discussions surrounding the sales tax system should provide the opportunity for broadening the debate on the sharing of fiscal sectors between the federal government and the provinces, especially considering the responsibilities attributed to both levels of government.[389]

368. Québec has on the whole received, from federal action in housing, financial benefits far lower than the share it should have received.[390]

c) Aboriginal Nations

369. In the 1970s, Québec was the first province in Canada to sign a modern treaty with some of its Aboriginal Communities. In the 1980s, Québec was the first province to recognize that Aboriginal Peoples constitute distinct

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[386] Declaration by Louise Beaudoin, Minister responsible for Canadian Intergovernmental Affairs, regarding Québec's participation in Federal-Provincial Conferences held since the election of the new government of Québec, Winnipeg, October 5, 1994.

[387] Communiqué from the staff of Jean Rochon, Minister of Health and Social Services, Interprovincial Conference of Health Ministers, Vancouver, April 11, 1995.

[388] Communiqués from the staff of Pauline Marois, Minister of Finance, Minister of Revenue and Minister responsible for the Family, Press Conference, Québec, December 12, 1995, nos. 1 and 2.

[389] Statement by Jean Campeau, Minister of Finance, press release from the government of Québec, Federal-Provincial Conference of Finance Ministers, Toronto, October 14, 1994.

[390] Government of Québec, *Coûts du fédéralisme pour le Québec dans le domaine de l'habitation*, (executive summary) an analysis made by the Société d'habitation du Québec, September 1995, p. 2 (quotation) [Translation].

nations within Québec. During the 1990s, Québec also intends on pursuing this pioneering process by granting Aboriginal Peoples a large measure of governmental autonomy. We make the commitment in this respect to allow the Aboriginal Peoples of Québec to be just as, if not more, responsible for their own development as any other group of Aboriginal Peoples in North America.[391]

d) French-Speaking and Acadian Communities of Canada

370. Québec sovereignty does not mean that we will turn our backs on fellow francophones elsewhere in Canada. On the contrary, in acquiring the status of a sovereign state, we will have specific responsibilities towards them.[392]

371. Québec's policy with regard to the French-Speaking and Acadian Communities of Canada forms a part of the government's determination to give a new start with regard to these communities. To do so, the government of Québec intends on:

- promoting contacts between members of the French-Speaking and Acadian Communities of Canada and Quebecers;
- backing the pursuit of projects that will bring about such exchanges;
- ensuring by the implementation of liaison structures that government actions will stay in contact with this new dialog.

To provide a new start for its actions, the government intends on promoting areas that are most favourable for the establishment of linguistic solidarity, namely through culture and communications, education and the economy.

For the implementation of Québec's policy, various means of concertation are planned:

a) Sectorial liaison tables on culture and communications, education and the economy. The tables are composed of experts in these sectors.

b) A Triennial Concertation Forum. The government of Québec takes the initiative for holding a large gathering of members of the French-Speaking and Acadian Communities and Quebecers. It will be a place for exchanges, displaying achievements and promoting French-Speaking gatherings.

c) Regional concertation. The Québec offices in Canada coordinate the regional concertation with French-Speaking and Acadian Communities.

d) Interministerial concertation. The Secrétariat aux affaires intergouvernementales canadiennes takes charge of coordinating interministerial activities related to French-Speaking and Acadian Communities.

e) The Financial Support Program for partners. This program provides backing for partnership projects in the fields of culture and communications, education and the economy.

Moreover, in future intergovernmental agreements, the government of Québec will favour bilateral cooperation activities that fit in with the objective of revitalizing French among French-Speaking Communities.[393]

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[391] Opening speech by Jacques Parizeau, Prime Minister elect, at a press conference held on September 14, 1994, p. 9 (quotation) [Translation]; as regards government policy towards Aboriginal Peoples, see speaking notes for Prime Minister Jacques Parizeau at a dinner-meeting with Montagnais and Attikamek Chiefs, Beaupré, October 28, 1994; see also Bill 1, An Act respecting the future of Québec reproduced in part 3: document no. 30.

[392] *A Frank Talk Between Neighbours About the Present and the Future*. Speaking notes for Jacques Parizeau before the Canadian Club, Toronto, November 22, 1994, p. 10 (quotation).

e) Trade

372. Québec intends on participating actively in conferences or meetings whose agenda will include the reviewing of issues linked to opening markets or the "continentalization" of various activities such as transportation or communications. Québec will contribute its efforts to measures seeking to ensure the proper operations of the economic space that it shares with other parts of Canada and to guarantee the greatest possible harmonization of this economic space with the largest economic groups—North America and GATT—which soon will become the World Trade Organization.[394]

373. Québec insists in drawing the other provinces' attention to the importance of emphasizing the mutual benefits from economic exchanges that take place in the Canadian economic space and it wants to further the advancement of negotiations over the Agreement on Internal Trade.[395]

f) Transportation

374. Québec beckons the federal government to assume its responsibilities with regard to railway companies under its jurisdiction and to put a stop to the disorderly abandoning of the network, which is progressing at the expense of Québec's economic interests. Over the short term, Québec want to avoid the premature destruction of important transportation infrastructures and facilitate their transfer to other businesses under acceptable conditions.[396]

375. The basic railway grid must be defined by each of the provinces and not by the Canadian Transportation Agency.[397]

376. Over the past years, Québec governments of all political colours have denounced federal disengagement from social and economic programs. Today, the National Marine Policy is endangering the competitiveness of our businesses' maritime system, river-oriented trade and the comparative advantages of the St. Lawrence. When finding a solution to its chronic problem of financial incapacity is at issue, Ottawa seems totally devoid of imagination. Until now, the only solution adopted by Ottawa has been to stick the provinces with the bill without providing them with the financial means to pay it.[398]

Transportation: See also paragraphs 358-360.

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[393] Government of Québec, Secrétariat aux affaires intergouvernementales canadiennes, *Québec's policy towards the French-Speaking and Acadian Communities of Canada: a dialog, solidarity in action*, 1995; *Reinforcing solidarity around common interests*, communiqué from the staff of Louise Beaudoin, Minister responsible for Canadian Intergovernmental Affairs, March 30, 1995.

[394] Declaration by Louise Beaudoin, Minister responsible for Canadian Intergovernmental Affairs, regarding Québec's participation in Federal-Provincial Conferences held since the election of the new government of Québec, Winnipeg, October 5, 1994, p. 3.

[395] *The Prime Minister insists on the importance of internal trade*, press release from the staff of Jacques Parizeau, 36th Annual Conference of Provincial First Ministers, St. John's, Newfoundland, August 24, 1995.

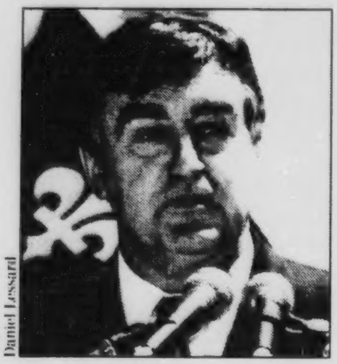
[396] *Veiller aux intérêts immédiats du Québec en preparant l'avenir*. Speech by Jacques Léonard, Minister of Transportation, Meeting of Ministers responsible for Transportation and Highway Safety, Winnipeg, October 5, 1994, p. 3.

[397] Letter from Jacques Léonard, Minister of Transportation, to Douglas Young, federal Minister of Transportation, Québec, April 10, 1995 (quotation) [Translation].

[398] Declaration from the staff of Jean Campeau, Minister of Transportation, regarding federal maritime policy, Québec, December 14, 1995.

GOVERNMENT OF LUCIEN BOUCHARD

(JANUARY 29, 1996 TO MARCH 8, 2001)


Daniel Lessard

••• Status of Québec

377. In North America, Québec is the only society with a French-Speaking majority, a well-defined territorial base, and political institutions it controls. The people of Québec possess all the traditional characteristics of a nation. [...] The Québec people subscribe to the democratic concept of a French-Speaking nation, pluralist in its culture, and open to international immigration [...].[399]

378. [In the Bertrand case], the federal government took the serious decision to go before a court to assert that the future of Quebecers does not belong to them. [...] To those who would have forgotten, to those who would deny it, to those who fear the strength of Québec, but mainly to us, who must state loud and clear that we are entitled to dispose of our own destiny, that we have set the most democratic rules of all, that we have respected the popular vote each time expressed and that, each time, our democracy has grown in strength, our right to choose become that much stronger. [...] There is nothing more sacred in the democratic life of a people than its capacity to dispose of its own destiny. This is the very essence of their liberty.[400]

379. As a reaction to federal intervention in the Bertrand case, the Québec National Assembly adopted the following resolution: "That the National Assembly reaffirm that the people of Québec are free to take charge of their own destiny, to define without interference their political status and to ensure their economic, social and cultural development."[401]

380. The only judge and jury on the future of Québec happens to be the people of Québec. No judge can stand in the way of a people's democratic expression. The government of Québec will not go before the Supreme Court of Canada regarding the federal government's Reference concerning the future of the Québec people. This is a purely political and not legal issue.[402]

381. That the National Assembly demand that the men and women politicians of Québec recognize the will, democratically expressed by Quebecers in the referendum of 30 October 1995 held in compliance with the Referendum Act, thus acknowledging the fundamental right of Quebecers to determine their future pursuant to this Act.[403]

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[399] Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, delivered at the "Forum des Fédérations" held in Mont-Tremblant, October 6, 1999, p. 3 (quotation).

[400] Speech by Lucien Bouchard at a debate on a motion proposing to reassert the liberty of Québec to determine its political status, Québec National Assembly, *Journal des débats*, May 22, 1996, p. 1244, 1245 and 1247 (quotation) [Translation].

[401] Resolution of the Québec National Assembly dated May 22, 1996 (quotation; see part 3: document no. 32).

[402] Press conference by Paul Bégin, Minister of Justice and Attorney General, September 26, 1996.

[403] Unanimous resolution of the Québec National Assembly dated May 21, 1997 (quotation; see part 3: document no. 35).

382. While the decision of the Supreme Court of Canada, in the case of the federal government's reference to the Supreme Court of Canada on Québec's accession to sovereignty, to appoint an *amicus curiae* is a part of its powers, the person so appointed shall not have either the authority or the legitimacy to speak on behalf of the people or the government of Québec. The appointment of an *amicus curiae* does not in any way modify the position of the government of Québec by which Québec's accession to sovereignty is a political issue that is not a question to be decided by legal proceedings, but by the people of Québec.[404]

383. The federal government and the rest of Canada must [...] understand, regardless of any Reference:

- that the people of Québec have always possessed, now possess and will continue to possess the fundamental and inalienable right to freely, democratically and without interference dispose of their political future;
- that this fundamental right of the people of Québec is exercised within the framework of democratic institutions that belong to them and that are of a remarkable vitality;
- that these same institutions, including the democratic decision that the people of Québec will make during the next referendum must be respected; and,
- that the future and destiny of the people of Québec may not be subjugated to the will of the government and federal parliament as well as to that of the other provinces. It is the responsibility of any democrat, and especially that of the government of Québec, to recall today at the beginning of this hearing, where the court has been proposed with the mandate to substitute itself in the rights of a people, these inalienable rights without which democracy cannot exist.[405]

384. The opinion handed down by the Supreme Court of Canada constitutes an important political event. The government of Québec, steadfast in its responsibility, has refused to participate in this episode of the federal political strategy and has firmly reiterated the right of Quebecers to choose their future. The Canadian government has failed in its attempt to have the core elements of its anti-sovereignty offensive validated. The opinion of the Court recognizes that a winning referendum would not only have democratic legitimacy, but that Canada would be obliged to recognize this legitimacy and could not deny the right of Québec to seek going through with such sovereignty. The opinion confirms that following a Yes, Canada would be obliged to negotiate with Québec. These negotiations would involve sovereignty and not a renewal of federalism. On the nature of the negotiations, the Court imposes obligations on the federalists to which sovereigntists have already adhered for some time. In the event of deadlocked negotiations, the Court does not dare give specific instructions but in broaching this subject, it does not in

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[404] Press conference by Paul Bégin, Minister of Justice and Attorney General, Sainte-Foy, May 9, 1997; position reiterated upon the designation of the *amicus curiae* (See the press release by Paul Bégin dated July 14, 1997).

[405] Declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, at the beginning of hearings on the case of the Supreme Court Reference, February 16, 1998 (quotation) [Translation].

any case evoke the hypothesis that Quebecers should resign themselves to remain in Canada and renounce their democratic decision. On the contrary, the Court only evokes one possibility, it is that to break a deadlock Québec should alone declare its sovereignty and call upon international recognition. By evoking a recognition facilitated in the case of intransigence towards Québec, the Court provides a supplementary condition to the success of the negotiations. Finally, the Court does not in any way put in doubt the right of the Québec National Assembly to decide, alone, what the wording of the question and the majority threshold will be.[406]

385. Before, during and after [the episode of the federal reference to the Supreme Court of Canada] the government of Québec has always maintained that accession to sovereignty is an essentially political issue. Affirming this does not in any way mean putting oneself above the law. It is refusing to let Québec be subject to the interpretation that the federal government wishes to make of the role played by the Supreme Court of Canada and the rulings that it has made.[407]

The federal Reference and Bill C-20: See paragraphs 393, 395 and 398.

386. The Québec government denounces the irresponsibility of people who resort to this partitionist rhetoric and, even more so, the irresponsibility of federal ministers and politicians who present the dismemberment of Québec as both a possibility and a defendable demand and who thus offer a moral endorsement to those who propound these arguments. All democrats, federalists, and sovereigntists should clearly disassociate themselves from such talk. Québec's territorial integrity is guaranteed before the accession to sovereignty under the rules of the Canadian Constitution and, after sovereignty by the well-established and imperative principles of general international law. The Québec government thus condemns all attempts and invitations to deny or deform this reality for the purpose of creating polarization, sowing discord, and encouraging a degradation of relations between the various components of Québec society. Québec's borders are geographical and historical. Never will the government agree to their being redrawn on the basis of linguistic, racial, or ethnic considerations.[408]

Territorial Limits and Bill C-20: See paragraphs 397-398.

387. Does the document [Calgary Declaration] recognize the existence of the Québec people? In my view, here we touch upon one of the saddest facets of the history of relations between Quebecers and Canadians. When observers wonder a few years from now why these two peoples were unable to continue to live under the same federal regime, the answer will be,

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[406] Briefing notes for a preliminary statement by Lucien Bouchard following the Opinion of the Supreme Court of Canada on the federal government's Reference, August 21, 1998 (See part 2 of this document).

[407] Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Droit, démocratie et souveraineté: Joseph Facal répond à Stéphane Dion," *La Presse*, November 17, 1999, p. B3 (quotation) [Translation].

[408] Ministerial statement by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on the Québec government's position regarding Québec territorial integrity, Québec National Assembly, *Journal des débats*, November 12, 1997, p. 8379-8382 (See part 2 of this document).

above all, a lack of respect and recognition and the refusal of one of the two peoples to recognize the existence of the other. [...] They refuse to recognize us as a people or a nation and [...] even afraid of the vapid expression "distinct society," the English-Canadian prime ministers have scraped the bottom of the barrel, where they undoubtedly found "unique character," an all-purpose term if ever there was one.[409]

The federal Resolution regarding the distinct society: See paragraph 431.

388.The Calgary Declaration runs [...] counter to Québec's interests. It consecrates the equality of the provinces in such manner as to deny Québec any possibility of renewed or asymmetric federalism or a special status for Québec. It denies the existence of the people of Québec in order to melt them into one Canadian reality in blatant contradiction with the pact between the two founding peoples.[410]

The Calgary Declaration and Social Union: See paragraph 444.

389.What [the Social Union Agreement] demonstrates is the inability of the federal government and the other provinces to reform the operations of the federal system by integrating and respecting Québec specificity. This agreement consecrates the emerging vision of the rest of Canada united around a State that is less and less federal and more and more resolutely unitary. [...] The Social Union agreement directly questions Québec's status within Canada. The consecration without precedent of recognizing for the federal government a leadership role by the other provinces is totally contrary to the historic aspirations and claims of the people of Québec.[411]

390.The federal government is [...] seeking to give credence to the idea that at the time of the next referendum it is necessary to establish a majority threshold that is greater than that of the absolute majority of votes (50% + 1). [...] Canadian practice, international practice and the practice of the United Nations unanimously indicate that in the matter of referendums on accession to sovereignty, the absolute majority of votes, namely 50% + 1, expresses not only a clear majority but also a rule that must be recognized as being democratic, constant and universal.[412]

391.[...] The introduction of a qualified majority, in whatever form, favours one option over the other and, above all, compromises the democratic principle of one elector, one vote.[413]

392.Québec is a society whose democratic institutions are over two centuries old, where there is political pluralism and the fairness of the rules of the game (freedom of speech, financing of political parties, umbrella committees and financing of referendum options) is a fundamental value of the political process. The near *ex aequo* results of the 1995 referendum, the results somewhat more alike in the simultaneous referendums on the Charlottetown Accord and the results obtained in France—to include an international example—during the referendum on the Maastricht Agreement, where the majority was set at 51 % illustrate the ordinary and healthy proceedings of a democracy, in addition to illustrating three cases where the results, although quite tight, were nonetheless respected.[414]

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[409] Statement by Québec Prime Minister Lucien Bouchard following the Meeting of the First Ministers in Calgary, Québec, September 16, 1997 (quotation; see part 2 of this document). The Calgary Declaration is as such reproduced in part 3: document no. 36.

[410] Speech by Lucien Bouchard at a meeting of the Commission permanente des institutions dealing with the Calgary Declaration, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, June 10, 1998, CI-136, p. 31 (quotation) [Translation].

[411] Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of reviewing budgetary credits 1999-2000 of the Secrétariat aux affaires intergouvernementales canadiennes , Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, April 28, 1999, CI-9, p. 3 (quotation) [Translation].

[412] *"Rules cannot be changed in the middle of the game,"* conference by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, Forum des fédérations, Mont-Tremblant, October 6, 1999, p. 4 and 5 (quotation).

[413] Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Facal répond à Dion (2): des demi-vérités sur la 'majorité claire'," *La Presse*, November 18, 1999, p. B3 (quotation) [Translation].

393. The federal Bill C-20 is a head-on collision with the democratic values that are dear to Quebecers. The federal government is seeking to impose a series of legislative padlocks to block the future of Quebecers. On the pretext of clarity, the federal government is acting as if it were seeking to give itself the means to evade the obligation of negotiating in good faith following a referendum favourable to sovereignty, as prescribed by the Supreme Court, advice the federal government itself sought. We subscribe to the obligation of clarity, but we maintain that it is a responsibility only the National Assembly can and must assume.[415]

394. The federal bill proposes to bestow on the Canadian Parliament the right to declare the referendum question inadmissible while it is debated by the National Assembly. In fact, the federal government wants to be able to censure the question, even before the referendum. The Québec people —one of Canada's two founding peoples—would not have the right to propose, by referendum, to their Canadian neighbour a new political or economic arrangement based on the peoples' sovereignty and political equality. Québec would not have the right to propose to Canada an arrangement similar to the one linking the 15 countries of the European Union. In other words, according to the government of Canada, the National Assembly is not free to decide which project it would submit to a vote.[416]

395. C-20 states that Quebecers must be protected against their government but also against themselves since they would be unable to weigh the issues set forth in a referendum question.[417] C-20 [...] is a dismal distortion of the Supreme Court's advisory reference and provides a legalistic veneer to the worst prejudices regarding the capacity of Quebecers to govern themselves democratically as a people.[418]

396. Everybody knows that there is but one rule guaranteeing voting equality, it is the rule of 50% plus one. Any

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[414] Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Facal répond à Dion (2): des demi-vérités sur la 'majorité claire'," *La Presse*, November 18, 1999, p. B3 (quotation) [Translation].

[415] Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, at the time of the tabling of the Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, Québec National Assembly, December 15, 1999, p. 1.

[416] *Ibid.*, p. 1-2.

[417] *"Who Fears Quebecers' Democratic Determination?,"* brief presented by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, before the Legislative Committee of the House of Commons entrusted with reviewing Bill C-20, Ottawa, February 24, 2000, p. 2 (quotation; see part 2 of this document).

[418] Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, "Le déclin du fédéralisme canadien," *Le Devoir*, October 30, 2000, p. A7 (quotation) [Translation].

other rule would give the voters of one side more weight than those of the other side. In Bill C-20, the Canadian Parliament wants to reserve the right to set at its own discretion, once the results of the referendum are known, the majority level its deems sufficient. It thus assumes in effect a right of *veto*.[419]

397. In the case where obstacles to Bill C-20 on the referendum question and the results would not prevent negotiations, the federal government has a third idea: putting in doubt Québec's territorial integrity, which every Québec government has deemed inviolable.[420]

398. Bill C-20 makes reference to the issue of borders while no where in the Supreme Court's opinion is there any mention of changing borders or only specifies, in mentioning borders, that it means nothing more than the changing of the current provincial borders into international ones.[421]

399 Not only is Bill C-20 unacceptable for Québec, but it is also unacceptable for all parties represented in the National Assembly. The Québec government does not recognize any legitimacy on the part of the federal government when it comes to such interference in Quebecers' rights to decide for themselves what their future will be. The National Assembly will adopt the question it wants to adopt. The Québec people alone will decide what constitutes clarity. The victorious option will be the one with votes clearing the 50% + 1 of validly expressed ones.[422]

400. The Québec government considers that it is through a bill that the National Assembly must reply to Bill C-20. It must adopt a bill that protects the right of every citizen, of every one of us, to express our vote—only one vote, but a whole vote—to decide our future.[423]

401. The Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (Bill 99) is somewhat unique in character. For the first time in the political history of Québec, in fact for the first time since Québec has its own parliamentary institutions, namely for more than 200 years, a legislative text emanating from its institutions specifically aims at asserting some of the most fundamental rights and prerogatives of the people and State of Québec.[424]

402. In short, Bill 99 reiterates the political and legal principles that form the basis of Québec society and democracy.

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[419] Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, at the time of the tabling of the Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, Québec National Assembly, December 15, 1999, p. 2.

[420] *Ibid.*

[421] Press conference by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, regarding Bill 99, An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, December 15, 1999.

[422] "*Who Fears Quebecers' Democratic Determination?*," brief presented by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, before the Legislative Committee of the House of Commons entrusted with reviewing Bill C-20, Ottawa, February 24, 2000, p. 4 (quotation; see part 2 of this document).

[423] Briefing notes for a speech by Québec Prime Minister Lucien Bouchard, at the time of the tabling of the Bill respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, Québec National Assembly, December 15, 1999, p. 2.

[424] Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of the debate on the adoption of the principle of Bill 99, Québec National Assembly, *Journal des débats* May 25, 2000, p. 6167. The Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State is reproduced in part 3: document no. 40.

It especially consecrates the fundamental right of Quebecers to freely dispose of their political future. It reasserts the sovereignty of the State of Québec in all its areas of jurisdiction, both domestically and internationally, as well as Québec's territorial integrity. It forcefully asserts that no other parliament or government may reduce the powers, authority or sovereignty and legitimacy of the National Assembly. It reiterates the principles underlying the Charter of the French Language. Lastly, it states that the rule of the majority of 50% + one vote validly cast, universally recognized and applied, is the one that will continue to prevail in interpreting the results of any referendum held under the Referendum Act through which the people of Québec will exercise their right to dispose of themselves. And the foregoing, it is appropriate to underscore, shall be carried out respectful of the established rights of the Québec English-Speaking Community and respectful of the existing rights of the eleven Aboriginal nations of Québec.[425]

403. The Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State is more than a mere statute; it is more of a charter of the political rights of the people of Québec.[426]

The Status of a Federated Entity and Globalization: See paragraph 425.

••• Constitutional reform process

404. The government will not be associated with any future multilateral constitutional discussions, based on the lucid observation made by former Premier Robert Bourassa following the failure of the Meech Lake Accord according to which the existing constitutional reform process in Canada has been discredited.[427]

The 1982 Patriation: See paragraphs 405-406.

••• Constitutional amending procedure

405. The National Assembly adopted a resolution authorizing an amendment of section 93 of the Constitution Act 1867, in order to allow the implementation of linguistic school boards in Québec. As regards the amending formula, the resolution states that this amendment of the Constitution Act, 1867 does not in any way constitute a recognition by the National Assembly of the Constitution Act, 1982 that was adopted without its consent and states the engagements subscribed by the federal government to proceed rapidly with such amendment, through bilateral action and with the agreement of the National Assembly and of the Federal Parliament.[428]

Amendment of section 93 of the Constitution Act, 1867: See also paragraphs 417 and 450.

406. By its heavy-handed tactics in 1982, Canada committed an historic injustice

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[425] Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of the debate on the adoption of the principle of Bill 99, Québec National Assembly, *Journal des débats* May 25, 2000, p. 6167. The Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State is reproduced in part 3: document no. 40 (quotation) [Translation].

[426] Speech by Lucien Bouchard at the time of the debate on the adoption of the principle of Bill 99, Québec National Assembly, *Journal des débats*, December 7, 2000, p. 8577 (See part 2 of this document).

[427] Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087.

[428] Unanimous resolution of the Québec National Assembly dated April 15, 1997 (Part 3: document no. 33).

to Québec. By allowing the 15-year deadline to lapse that it had set for changing its amendment formula, Canada admits that this injustice is irreparable within the federal system.[429]

••• Distribution of powers

a) General principles

407. The government has neither the intent nor the mandate to abandon any part of Québec's constitutional jurisdictions, whether this involves a constitutional or administrative operation.[430]

408. Successive governments in Québec, regardless of their political option, have always worked to reaffirm its jurisdiction in order to foster its people's control over its economic, social and cultural development and that of its political institutions.[431]

409. The rest of Canada must realize that Québec intends to maintain the integrity of its jurisdictions and fiscal autonomy and that there is no doubt as to the determination of the Québec government on this issue. The agreement of a number or of all the provinces to the administrative restructuring that may result from any re-balancing exercise would not make this operation any less unacceptable for Québec, it being a restructuring that would purport to impose priorities or standards in sectors within Québec's exclusive jurisdiction and which would correspondingly reduce its political autonomy within the federation. Québec will never compromise its autonomy by agreeing to principles that would weaken its jurisdiction and, in the eyes of the Québec people, would run counter to its interests and to the Constitution. What the federal government and the provinces are offering as a re-balancing of the federation is equivalent to a denial of the historic progress made by the Québec people.[432]

410. The imminent arrival of a budgetary surplus in Ottawa is already stirring up creative overlapping and duplicating federal interventionism. In such a context, the government of Québec will firmly defend its autonomy and prevalence over sectors under its jurisdiction. Consequently:

- [...] Québec shall demand respect for its constitutional jurisdictions and shall lay claim to the fullest exercising of them; it shall continue to denounce encroachments by the federal government and it shall demand full financial compensation in the form of tax points, especially within the framework of any new federal agreement or initiative in a sector coming under Québec's jurisdiction;
- [...] In the case of federal disengagement from other sectors, it shall demand, as the case may be, that the transferring of jurisdictions to Québec be accompanied with fair compensation.[433]

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429. Ministerial declaration by Lucien Bouchard on the unacceptable character of the Constitution Act, 1982, Québec National Assembly, *Journal des débats*, April 16, 1997, p. 6267-6269 (quotation) [Translation]. See also the decision of the Conseil des ministres no. 97-092 on the fifteenth anniversary of the coming into force of the Constitution Act, 1982, April 16, 1997, reproduced in part 3: document no. 34.

430. Declaration by Lucien Bouchard, press release entitled: *The Re-Balancing of the Roles and Responsibilities of Ottawa and the Provinces: Another Road to Centralization*, Jasper, August 23, 1996 (quotation) [Translation].

431. Document *Administrative Re-Balancing of Roles and Responsibilities: Québec's Position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1 (quotation).

432. *Ibid.*, p. 1 (quotation).

433. Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087.

411. Quebecers' feeling of alienation stems notably from the fact that the federal government acts as if the Canadian federation has become an almost unitary State. A federation represents a pact between a number of states that includes a clear division of responsibilities which each partner undertakes to observe. The federal government spends when and how it wishes, with its enormous surplus it has obtained, to a substantial degree, by making massive cuts in transfer payments to the provinces. In this way, the division of responsibilities among each partner seems to have lost all its meaning. In the sham federation Canada has become, the legitimate and original aspirations of Québec's people have been "flattened" by the federal steamroller and its propaganda machine.[434]

Federal Principle and Globalization: See paragraph 425.

b) Sectorial jurisdictions

412. The 1996 Speech from the Throne announced a supposed federal withdrawal from various sectors: Forestry, mining, housing, recreation and tourism. Actually, after having intervened heavily in these areas, often counter to Quebecers' priorities and needs, but while using their tax money, Ottawa simply announces that it is disengaging itself financially or that at the end of existing agreements, it will have just about curtailed its contributions, but will keep Quebecers' money for its own purposes.[435]

Social Housing: See also paragraph 460.

413. Québec spends three billion dollars on childhood development programs and currently has put together a unified program. The acceptance of a Canada-wide integrated child allocation program would be tantamount to putting Quebecers' tax money into a general kitty and renouncing the granting of amounts required for Quebecers' needs and priorities.[436]

414. Québec is opposed to implementing any Canada-wide program under the social policies heading, such as a "national" benefit for children, the effect of which would be that Québec could not exercise all its responsibilities in this area. Social policies are its exclusive domain and it intends on exercising full powers in this matter within its territorial boundaries. As such, Québec sought the transfer of tax points or a financial transfer corresponding to the federal government's expenses in that sector in Québec and that it could have posted to the objectives pursued by the family policy announced last January. The federal government has made it known that it will not follow-up on this request.[437]

Reforming Social Policies and the Social Union Framework Agreement: See section c) ("unilateral powers"), at paragraphs 435-448.

415. Despite Québec's objections, the provinces of English Canada and the federal government have imposed on Québec standards for the "national" child benefit. At the same time, Québec is prevented from implementing its own parental insurance plan since the

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[434] Press release by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, Ottawa, December 8, 1999.

[435] Press release by Lucien Bouchard, Federal-Provincial Conference, Ottawa, June 21, 1996, no. 1.

[436] Declaration by Lucien Bouchard at the annual Conference of Provincial First Ministers, press release, *Social programs: Québec refuses the provinces' proposal to centralize Québec's powers in social affairs in Ottawa*, Jasper, August 23, 1996.

[437] Press release by Pauline Marois, Minister of Education and Minister responsible for the Family and Childhood, Federal-Provincial Conference of Ministers responsible for Social Services, Toronto, April 18, 1997.

federal government has refused to fully withdraw from the space for contributions paid by employers and workers for maternity leaves within the employment insurance framework.[438]

National child benefit: See also paragraph 452.

416. While sharing the same concerns on early childhood development, Québec does not adhere to the document on early childhood development, released at the First Ministers' Meeting on September 11, 2000 because some of its sections infringe on its constitutional jurisdictions in social policies. Québec intends to preserve its sole responsibility for developing, planning, managing and delivering early childhood development programs. Consequently, Québec expects to receive its share of any additional federal funding for early childhood development programs without new conditions.[439]

417. The amendment of section 93 of the Constitution Act, 1867, consecrates Québec's exclusive power in education.[440]

Amendment of section 93 of the Constitution Act, 1867: See also paragraphs 405 and 450.

418. University teaching and research are Québec jurisdictions. As such, there can be no question of having a foundation set up by the federal government making strategic choices instead of Québec with regard to areas to be favoured in research. The government of Québec therefore demands that the Canada Foundation for Innovation reserve for Québec its share and that it pay such amount in full to Québec. Requests from universities, as well as those from affiliate university research centres and institutes, will be processed by currently existing project selection mechanisms within the Québec government and on the basis of development priorities in the health care and education sectors. Universities, as well as affiliate university research centres and institutes, will not be able to deal directly with the Foundation to avoid having projects arriving in a disorderly fashion without taking Québec priorities in health care and education into consideration. This procedure enables Québec to reassert the exercising of its right in the areas of jurisdiction that belong to it exclusively, namely in health care and education, while respecting its priorities in research and development and doing justice to the potential for excellence and creativity found in the Québec scientific community.[441]

Research and development: See also paragraph 461.

419. Following the announcement of the creation of the Canada Millennium Scholarship Foundation, the Québec government stated its objection to this federal initiative and announced its intention to withdraw from the upcoming program with full compensation.[442] On March 30, 1998, Québec proposed to amend the federal bill instituting the Foundation to integrate

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438. Document *Canadian Social Union: Québec's position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1-2.

439. Communiqué on early childhood development, Meeting of First Ministers, Ottawa, September 11, 2000.

440. Press release by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, Québec, December 19, 1997. See also the unanimous resolution of the Québec National Assembly dated April 15, 1997, authorizing the constitutional amendment (Part 3: document no. 33).

441. Press release by Pauline Marois, Minister of Education, and Jean Rochon, Minister of Health and Social Services, Québec, December 8, 1997.

442. Letter from Lucien Bouchard to Jean Chrétien, Prime Minister of Canada, February 17, 1998, referring to a letter dated December 5, 1997.

into it an opting-out right with compensation for provinces that have built and administer a student financial assistance program to ensure them equal opportunities regarding post-secondary education.[443]

420. That, for the benefit of Québec students, the National Assembly urgently ask the federal government and the Québec government to resume the negotiations regarding the millennium scholarship in order that an agreement on legislative amendments respecting the following principles may be reached:

a) The part granted each year to Québec students is determined by means of a formula based on demographic parameters;

b) Québec selects the students who shall receive a scholarship;

c) The scholarships are forwarded to the recipients in such manner so as to avoid all duplication and to ensure the necessary visibility to the federal government.

Furthermore, the National Assembly acknowledges the Québec government's intention to allocate the amounts thus saved in its scholarship programme to the funding of colleges and universities.[444]

Millennium Scholarships: See also paragraph 448.

421. Under the Canada-Québec Labour Market Development Agreement in Principle, Québec accepts responsibility for the planning, design, delivery and evaluation of active employment measures financed by the Employment Insurance Account. In addition, Québec accepts primary responsibility for job placement and information on the Québec labour market. The agreement reached between Québec and the federal government was concluded after more than thirty years of requests that culminated in tight negotiations begun in December 1995. The Agreement is an important step in recovering full power over labour force issues and makes it possible to begin eliminating the overlapping of employment policies in Québec.[445]

422. Québec agrees with the health care communiqué released at the First Ministers' Meeting on September 11, 2000. It specifies that nothing in the communiqué will be interpreted so as to derogate from the respective governments' jurisdictions. The components of this communiqué, namely the vision, principles, action plan for health system renewal, clear accountability and working together shall be interpreted in full respect of each government's jurisdictions.[446]

423. Québec has always stood firm on exercising its jurisdictions in fiscal policy and the collection of revenues. In this context, federal agency formulas pertaining to revenue and border services could not be applied to Québec.[447]

Tax collection: See also paragraph 458.

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[443] Québec government proposal to amend Bill C-36, Ottawa, March 30, 1998.

[444] Unanimous resolution of the Québec National Assembly dated May 14, 1998 (quotation). An administrative agreement was concluded with the Canada Millennium Scholarship Foundation and the ministère de l'Éducation du Québec in December 1999.

[445] Press release by Lucien Bouchard, Montréal, April 21, 1997.

[446] Health care communiqué released at the First Ministers' Meeting, Ottawa, September 11, 2000.

[447] Letter from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance, Québec, February 26, 1997.

424.[...] Whereas above and beyond its jurisdictions in matters of education, language, culture and identity, the Gouvernement du Québec is the sole interlocutor competent to directly and appropriately represent the reality and interests of the Québec people; [...]

The Gouvernement du Québec declares:

- That in all international forums dealing with education, language, culture and identity, it is fundamental that the Gouvernement du Québec speak in its own voice on behalf of the Québec people;
- That the Gouvernement du Québec therefore intends to participate directly in these forums, to encourage the holding of them and to favour their organization and action;
- That for the purposes of participating in certain international organizations to which Canada is the statutorily accredited State, the Gouvernement du Québec intends to initiate negotiations with the federal government in order to reach agreement on the terms and conditions of its presence and the exercise of its freedom of speech.[448]

425.If the federal principle is to be preserved in the context of globalization, the federated entities would have to have control over their own international relations for all issues related to their exclusive internal jurisdiction, and conversely the federal governments would have to agree to limit their interventions to exchanges concerned solely with matters under their own jurisdiction. It is therefore clear that if we are unable to leave room for the federated entities on the international stage, and continue to reserve it exclusively for fully sovereign States, the federated entities that have the means to do so will naturally seek a change in their status, driven by the need to ensure that their communities are able to develop their full potential. This temptation will be all the greater since globalization has the effect of reducing one of the gains of the federal system, namely the maintenance and protection of a common economic space. Given that this gain could henceforth depend increasingly on the international order, many federated entities may find that they are no longer satisfied with their current political arrangements.[449]

426.The recognition of cultural duality means for Québec where over 85 % of Canada's French-Speaking population lives, that its government would be entrusted with exclusive powers in cultural affairs with full financial compensation.[450]

427.Québec is firmly opposed to any proposal seeking to question Québec's and the provinces' recognized jurisdiction in securities and to thereby allow the federal government to interfere in the securities sector, whether directly or indirectly.[451]

428.That the National Assembly clearly affirm Québec's wish to continue,

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448. Declaration of the Gouvernement du Québec respecting Québec's participation in international forums dealing with education, language, culture and identity, Québec, March 24, 1999 (quotation: see part 3: document no. 39).

449. *Globalization, the Federative Deficit and the Case of Québec*, speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, delivered on the Occasion of the XVIIIth World Congress of the International Political Science Association, Québec, August 3, 2000, p. 5-6 (quotation: see part 2 of this document).

450. Letter from Louise Beaudoin, Minister of Culture and Communications and Minister responsible for the Charter of the French Language, to Sheila Copps, federal Deputy Prime Minister and Minister of Canadian Heritage, Québec, January 16, 1997.

451. Letter from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance, Québec, March 7, 1996.

with the other provinces, the harmonization process with regard to securities, which is in conformity with the objective of preserving the Canadian economic space, and that it request that the federal government abandon its plan to create a National Securities Committee, *which constitutes interference* in a provincial area of jurisdiction.[452]

429. In the area of banking reform, the government of Québec asks the federal government not to provoke inefficiency in Québec consumer protection by introducing costly duplications of surveillance structures and recourse, as well as the confusion, even overlaps, in the regulating of financial markets.[453]

430. Federal Bill C-54 on the Personal Information Protection and Electronic Documents Act in the private sector constitutes both a significant step backwards for Quebecers as regards the protection of personal information and an unacceptable intrusion in an area of jurisdiction belonging to Québec. By extending the scope of the bill to virtually all businesses, the federal government has opened the door to expensive and heavy duplication for citizens and probably, in the end, to constitutional disputes.[454]

431. Federal Bill C-54 jeopardizes certain civil law principles that govern Québec society. The government of Québec has always considered the resolution adopted by the House of Commons after the 1995 referendum on the distinct society to be trivial and of no effect. Nonetheless, since this is a federal policy, coherence would imply the pure and simple withdrawal of Bill C-54 or, failing this, substantial amendments *to exclude Québec from its field of* application.[455]

432. The federal Personal Information Protection and Electronic Documents Act in the private sector touches upon issues of civil law that come under the jurisdiction of Québec and for which Québec fully assumes its responsibility. The federal statute establishes a twofold legal system, applying concurrently, which will uselessly complicate matters for consumers and businesses, besides creating an unthinkable mess. Moreover, part 2 of the federal statute pertaining to signatures and electronic documents adopts an approach contrary to that of Québec, which currently sets the necessary legislative parameters needed for establishing the legal stability of E-trade transactions.[456]

433. In the field of consumer protection rights, Québec intends on pursuing its joint efforts with Canadian provinces, but it is opposed to any federal determination to define a national standard in such fields. Québec fully accepts its jurisdiction in the field of consumerism.[457]

434. The government of Québec refuses to sign the Canada-wide Accord on Envi-

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[452] Unanimous resolution of the Québec National Assembly dated June 4, 1996 (quotation). This resolution was referred to in the letter dated February 13, 1997 from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance.

[453] Letter from Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, to Paul Martin, federal Minister of Finance, Québec, June 10, 1999.

[454] Declarations by André Boisclair, Minister of Relations with Citizens and Immigration, and Louise Beaudoin, Minister of Culture and Communications, press release, Montréal, November 20, 1998.

[455] Letter from Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, to Stéphane Dion, federal Minister of Intergovernmental Affairs and President of the Privy Council, Québec, April 28, 1999.

[456] Declarations by Robert Perreault, Minister of Relations with Citizens and Immigration, and David Cliche, Minister Responsible for the Information Highway, press release, Québec, October 28, 1999.

[457] Declarations by Robert Perreault, Minister of Relations with Citizens and Immigration, press release, Federal-Provincial Conference of Ministers responsible for Consumerism, Banff, November 19, 1999.

ronmental Harmonization and related Sub-agreements of the Canadian Council of Ministers of the Environment until the conditions set by Québec are respected by the government of Canada. These prior conditions demanded by Québec include recognition of the exclusive or prevailing jurisdictions assigned to it under the Constitution, a firm commitment on the part of the federal government to Québec specifying the legislative amendments to federal statutes required for harmonizing purposes will effectively be adopted and, finally, the reaching of a bilateral agreement with the federal government pertaining to environmental assessments.[458]

c) Unilateral powers

435. Ottawa claims that from now on it wants to limit [its spending power], but Ottawa's commitment is revocable, conditional and does nothing to solve current problems. Ottawa reserves the right to impose on Québec financial or normative constraints if the federal government reaches an agreement with the majority of the provinces to implement new shared-cost programs. Ottawa keeps its discretionary power to act unilaterally in any of Québec's exclusive powers while also maintaining its capacity to set at will the compensation to be paid to Québec. Above all, one sees the confirmation of all past intrusions in the fields of education, health, social services and income security. The government of Québec prefers asking Ottawa to unconditionally transfer its fair share of taxes that Quebecers send to Ottawa so that Québec may of its own accord invest them in its areas of exclusive powers.[459]

436. Québec [...] cannot nor does it want to be associated with the federal-provincial process [relating to social policy reform and renewal] because of the two pernicious effects it will have: first, that of limiting the exercising of its exclusive powers regarding health, education and income security to the benefit of the federal government; second, this will make it inevitable that some portion of Quebecers' taxes will serve as a tool for imposing on them policies that do not answer their needs and perpetuate overlapping and waste.[460]

437. Most recommendations from the report of the Intergovernmental Ministerial Council on Social Policy Renewal—a council with which Québec has not associated itself—seek to standardize social policy Canada-wide and thereby offers the federal government an opportunity to legitimize the enhanced role—which has no constitutional basis—that it wishes to have. Québec cannot commit itself to an intergovernmental decision-making processes whose effect will be to subject it to standards to which Québec has not consented in areas belonging to its jurisdiction.[461]

438. The Québec government condemns the proposals on social policy reform

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[458] Press release by Paul Bégin, Minister of the Environment and Wildlife, at the meeting in St. John's (Newfoundland) of the Canadian Council of Ministers of Environment, January 29, 1998.

[459] Press release by Lucien Bouchard, Federal-Provincial Meeting of First Ministers, Ottawa, June 21, 1996, N° 1 (quotation) [Translation].

[460] Press release by Lucien Bouchard , Federal-Provincial Meeting of First Ministers, Ottawa, June 21, 1996, N° 2 (quotation) [Translation].

[461] Declaration by Lucien Bouchard at the annual Conference of Provincial First Ministers, press release entitled *Social programs: Québec refuses the provinces' proposal to centralize Québec's powers in social affairs in Ottawa* Jasper, August 23, 1996.

under which Québec would be invited to give up the authority it has always claimed to set its own priorities and allocate the power available to the specific needs of Quebecers.[462] The government of Québec remains the most suited government for answering the specific needs of Quebecers.[463] The Québec government is the best positioned government to meet the specific needs of Quebecers.

439. An intergovernmental mechanism to formulate national standards for social programs. Such a mechanism is consistent with a view of the federal system shared by many provinces in English Canada. Québec's view in this matter is profoundly different, but just as legitimate. On one side, the vision of English Canada attributes to the federal government responsabilities in the definition of social policies regardless of the provisions of the Constitution. On the other, the vision of Québec claims historically that its exclusive jurisdiction be recognized and reaffirms its determination to maintain sole control over its social program priorities and policy directions within its territory. With this mechanism, Québec is being asked to relinquish its jurisdiction and hand over choices and policy directions for social programs to an intergovernmental body in which it will necessarily be in a minority situation.[464]

440. Québec is quite prepared to share its social policy experience and to conclude reciprocity agreements with interested provinces to ensure the accessibility and portability of social program benefits.[465]

441. The government of Québec is prepared to participate in talks dealing with the establishment of an umbrella agreement on the management of the social union and the monitoring of "federal spending power," provided that all participating governments adhere to the following:

1) The participants must express an interest in the recognition of a province's unconditional right to withdraw with full compensation in respect of any measure or matter likely to affect an area of provincial jurisdiction and agree that the definition of this of withdrawal right will be a key objective of talks on the umbrella agreement.
2) During discussions on such an umbrella agreement, all participants, including the federal government, must agree to a moratorium on any new federal government initiative or measure likely to affect an area of provincial jurisdiction. Consequently, the participants agree, in a non-restrictive manner, that any discussion or implementation of such initiatives or measures will be postponed until the conclusion of talks on the framework agreement.
3) The Québec proposal must in no way be interpreted as direct or indirect recognition of federal spending power or any federal role whatsoever in the realm of social policy.

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[462] Document entitled *Administrative Re-Balancing of Roles and Responsibilities: Québec's Position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1 (quotation).

[463] Document *Canadian Social Union: Québec's position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 1 (quotation).

[464] *Ibid.*, p. 1-3 (quotation).

[465] *Ibid.*, p. 3 (quotation).

Moreover, Québec reaffirms its historic position concerning respect for its fields of jurisdiction.[466]

442. The primary concern of the provinces, both with regard to the ministerial council's talks on social policy renewal as the current negotiations on the proposed framework agreement on the social union, resides essentially in their determination to shelter themselves from unilateral federalism through which Ottawa has massively disengaged itself from the financing of social programs. Québec shares this concern with the provinces as regards the stability and continuity of federal commitments to financing social programs. Nonetheless, Québec's concern extends far beyond with regard to federal spending power. Québec considers that the development, planning and management of social programs is its sole responsibility. Not only does the Constitution recognize its exclusive power in this matter, but moreover, the Québec government is the one closest to Quebecers and the one most suited for respecting their aspirations and answering their needs and priorities. This is why Québec has always demanded its withdrawal with full fiscal or financial compensation from any federal government initiative financed by its spending power. Québec considers that it must be the sole master over social policy initiatives that it defines on the basis of its way of doing things and its specific reality.[467]

443. The guarantee of a right to opt out with full financial compensation is a condition that cannot be ignored for Québec to participate in negotiations relating to a future social union project.[468]

444. Not recognizing Québec's right to opt-out with full financial compensation from any federal initiative in social policy means refusing to clearly recognize Québec's specific reality, its distinct character and it confirms that the recognition of Québec's uniqueness in character set forth in the Calgary Declaration is merely symbolic.[469]

445. On August 6, 1998 in Saskatoon, the Québec government joined in negotiations relating to the social union framework agreement. The Premiers recognized the essential dimension of the provincial/territorial consensus negotiating position as regards the ability of a province or a territory to opt out of any new or modified Canada-wide social program in areas of provincial /territorial jurisdiction with full compensation, provided that the province or the territory carries on a program or initiative that addresses the priority areas of the Canada-wide program.[470]

446. In August of last year, in Saskatoon, the Government of Québec agreed to support a common claim devised by the other provinces of Canada and the basic objective of which was to limit the federal government's spending

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[466] Press release by Lucien Bouchard, Conference of First Ministers, Ottawa, December 12, 1997.

[467] Speech by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, regarding Québec's position on the issue of the federal spending power within the scope of discussions on the social union framework agreement, Federal-Provincial Meeting of Ministers responsible for the Social Union Framework Agreement, Toronto, April 17, 1998, p. 1 (quotation) [Translation].

[468] *Ibid.*, p. 3 (quotation) [Translation].

[469] *Ibid.* (quotation) [Translation].

[470] Communiqué entitled *The Canadian Social Union Framework Agreement*, 39th Annual Conference of Provincial First Ministers, Saskatoon, August 6, 1998. The interprovincial consensus was reaffirmed on January 29, 1999 in Victoria.

power, one of the most serious deviations of our recent history. [...] The proposal of the provinces succeeded in reconciling the interests of several English-Speaking provinces and those of Québec. Indeed, the Saskatoon consensus allows the English-Speaking provinces, if they so desire, to accept the federal presence and to collaborate with it. Moreover, this consensus allows other provinces which, like Québec, wish to retain their jurisdictions and autonomy, to exercise their right to opt out with full compensation of any federal initiative in these fields.[471]

447. The government of Québec refused to sign the Social Union Framework Agreement that was reached on February 4, 1999 between the federal government and the provinces.[472]

448. Why did we say no [to the Social Union Agreement]? Well, essentially because the Social Union Agreement does not confer upon Québec any true opting-out right with full compensation as regards any new Canada-wide social initiative to which we would prefer our own initiative or action, as for instance, the $5 per day nurseries. Québec also refused this agreement because it does not in any way prevent a repetition of the Millennium Scholarship unilateral scenario. This agreement, in fact, legitimizes Ottawa's recourse to direct transfers to individuals or organizations when it is unable to obtain support from a majority of provinces for the implementation of some new Canada-wide social initiative. Québec said no to the agreement because we cannot accept having a new Canada-wide social initiative in our fields of jurisdiction that is imposed on us by a federal government that would see its legitimacy—in appearance—backed by six provinces hardly representing 15% of Canada's population. It must also be stated that the opting-out right provided under the agreement is only applicable to new shared-cost programs [...], it is still highly conditional upon achieving all the Canada-wide objectives as well as respecting the accountability conditions set by Ottawa. The only federal obligation is limited in such cases to a prior notice to the provinces [that] does not entail any obligation of result. What's more, as regards mobility this agreement contains clauses likely to directly impact Québec policy on differential school fees for students from outside Québec, including the compulsory residential period as a criteria for eligibility under the loans and bursary program, as well as the qualification system in the construction sector. So for all of these reasons and because, generally speaking, this Social Union Agreement has a direct impact upon Québec's constitutional responsibilities regarding the development, planning and management of social programs that answer the needs of our population, we have chosen not to sign.[473]

The Social Union Framework Agreement and the Status of Québec: See paragraph 389.

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[471] Declaration by Lucien Bouchard on the Social Union, January 27, 1999, p. 1 (quotation).

[472] *A Framework to Improve the Social Union for Canadians*, February 4, 1999. This agreement, which Québec did not sign, is reproduced in part 3: document no. 38.

[473] Speech by Joseph Facal, Minister responsible for Canadian Intergovernmental Affairs, at the time of reviewing budgetary credits 1999-2000 of the Secrétariat aux affaires intergouvernementales canadiennes, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, April 28, 1999, CI-9, p. 3.

••• Language rights

449.The government of Québec solemnly reaffirms its commitment to preserve the rights of the English-Speaking Community now and in a sovereign Québec. Administration of their schools, colleges and universities; access to courts and the government in English; access to social and health care services in their language; public radio and television broadcasting services in English.[474]

450.By authorizing the amendment to section 93 of the Constitution Act, 1867 allowing the establishment of linguistic school boards, the National Assembly reaffirmed the established rights of the Québec English-Speaking Community. More specifically, Quebecers whose children are admissible in accordance with Chapter VIII of the Charter of the French Language have the right to have them receive their instruction in English language educational facilities under the management and control of this community, as provided by law, and which are financed through public funds.[475]

Established rights of the Québec English-Speaking Community: See also paragraph 402.

••• Institutions

451.That the National Assembly express the wish that the office of Lieutenant Governor be abolished; nevertheless, given that the provisions of the Constitutional Act imposed upon Québec render impossible the abolition of this office at the current time, the National Assembly requests that the federal government henceforth appoint as titular of the office of Lieutenant Governor the public figure democratically designated by the Assembly.[476]

452.Centralizing federal interventions are expressed in [...] intergovernmental forums. The discussions in these forums —as seen in the social policies case— often acts as a powerful accelerator of federal government initiatives in areas that are not under its jurisdiction. In these forums, one must also note the fact that Québec's positions are not taken into account has become a Canadian habit. The case of the so-called "national" benefit for children imposed on Québec in 1996 constitutes tangible evidence of this trend. It is, however, of fundamental importance that the government of Québec make known its positions regarding these intergovernmental forums and then closely follow their evolution.[477]

••• Intergovernmental policy

a) Conducting intergovernmental relations

453.Québec cannot commit itself to a re-balancing process whose general orientations and specific measures lead to the abandoning of Québec's basic claims and the gradual erosion of these claims via administrative intergovernmental means.[478]

454.Québec reaffirms its intention to continue, outside the on-going re-balancing exercise and on a bilateral basis, its discussion with the federal government in basic areas of practical importance to Quebecers. These discussions will focus on putting an end to Ottawa's intrusions in Québec's domains of responsibility and on ensuring that any transfer of federal measures and programs is matched by the corresponding budgets in tax points. [...] In the general spirit of partnership that it wishes to maintain and further develop with Canada, Québec will continue its discussions with the provinces, particularly on issues affecting employment and the economy, notably the implementation of the Agreement on Internal Trade, to strengthen the economic space that it shares with them.[479]

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[474] *Living together before, during and after the referendum*. Notes for a speech by Lucien Bouchard before the English-Speaking Community of Québec, Montréal, March 11, 1996, p. 7.

[475] Unanimous resolution of the Québec National Assembly dated April 15, 1997, (Part 3: document no. 33).

[476] Resolution of the Québec National Assembly dated November 20, 1996 (quotation).

[477] Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087 (quotation) [Translation].

[478] Declaration by Lucien Bouchard, press release entitled: *The Re-Balancing of the Roles and Responsibilities of Ottawa and the Provinces: Another Road to Centralization*, Jasper, August 23, 1996 (quotation) [Translation].

455. Faced with the federal government's strategy, which on the one hand seeks to deny the existence of the people of Québec, capable and free to decide on their political future, and on the other, it behaves as if Canada were a unitary State, thus denying both the spirit and the letter of the Canadian Constitution, the government of Québec makes public the orientations in Canadian intergovernmental relations that will guide the Québec government's actions.[480]

b) Financial aspects of federalism

456. [...] As long as it is part of the federation, Québec will continue to demand that the federal government withdraw from social program funding and vacate the tax space in which it collects taxes from Québec taxpayers for purposes that fall within Québec's exclusive jurisdiction.[481]

Tax points transfer:
See also paragraphs 410, 414, 435 and 442.

Federal disengagement from the financing of social programs: See paragraphs 411 and 442.

457. The government of Québec shall actively participate in intergovernmental discussions on issues involving the revision of financial arrangements within the federation. Within the framework of these discussions, the government's objective shall not only be to preserve, but also to increase Québec's fiscal autonomy.[482]

Fiscal autonomy: See also paragraph 409.

458. Considering specifically that the ministère du Revenu du Québec is already the sole tax collector in Québec; considering the genuine advantages for our governments and citizens that result from this unified administration; considering that the ministère du Revenu du Québec already administers a tax system in Québec; considering that this system is already largely harmonized with the federal system and considering, lastly, this wish that citizens may only have one collector of taxes; It appears to the government

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[479] Document entitled *Administrative Re-Balancing of Roles and Responsibilities: Québec's Position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 3 (quotation).

[480] Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9087-9088. Guidelines made public on this occasion are reproduced in part 3: document no. 37.

[481] Document entitled *Canadian Social Union: Québec's position* tabled by Québec Prime Minister Lucien Bouchard, at the First Ministers' Conference, St. Andrews, August 6-8, 1997, p. 3 (quotation).

[482] Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9088 (quotation) [Translation].

of Québec that the taxation model it has developed with the federal government could be advantageously extended to corporate and individual taxes thereby making the ministère du Revenu du Québec the only tax collector in Québec.[483]

Canada Customs and Revenue Agency: See paragraph 423.

459. Considering the compensation paid to the Atlantic provinces within the context of harmonizing the federal tax on goods and services, Québec deems it is entitled to receive compensation from the federal government since Québec by itself and without financial assistance, proceeded with the harmonization of its sales tax system with that of the federal tax system.[484]

460. Québec is prepared to accept a transfer of all federal responsibilities regarding housing, provided that this be accompanied with satisfactory financial compensation in light of criteria of fairness, sufficiency and continuity. Currently, Ottawa's proposal is limited to offering Québec only the administration of existing federal obligations with regard to social housing stock, which only amounts to a simple management contract. In addition, on the subject of social housing, Québec has not obtained its fair share of federal expenditures; the government cannot accept this situation, no more than prior administrations were able to tolerate this. Were we to be satisfied with less than our share of financing of the federal effort for housing, this would be all the more unacceptable since Québec needs in this area are proportionately greater than those of the other provinces.[485]

461. The economic and financial policies of the federal government constitute an enormous burden for Québec. In this respect, Québec speaks out against the small share of federal development expenses made in Québec, plus the weak federal contribution to research and development in Québec, a core sector in an increasingly knowledge-based economy.[486]

c) Aboriginal Nations

462. The government of Québec has adopted new guidelines regarding aboriginal affairs that are consistent with earlier political steps, namely, the 1985 National Assembly resolution and the fifteen principles adopted by the government in 1983. The primary objectives of these orientations are to develop harmonious relations based on confidence and mutual respect between Aboriginal Peoples and non-aboriginals, to increase the self-government and fiscal autonomy of Aboriginal Peoples. The approach proposed by the government seeks the making of agreements favouring responsibility and development with aboriginal communities and the implementation of measures

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483. Letter from Rita Dionne-Marsolais, Minister of Revenue, to Herb Dhaliwal, federal Minister of National Revenue, Sainte-Foy, April 3, 1998. The position was reiterated in the letter dated June 30, 1999 from Bernard Landry, Deputy Prime Minister, Minister of State for the Economy and Finance and Minister of Revenue, addressed to Herb Dhaliwal.

484. Declarations by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, and Jacques Brassard, Minister of Transportation, Minister responsible for Canadian Intergovernmental Affairs, Press release, Québec, May 21, 1996; see also the press release by Bernard Landry and Jacques Brassard dated December 13, 1996.

485. Declarations by Rémy Trudel, Minister of Municipal Affairs and Minister Responsible for Housing, and Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, press release, December 16, 1997; letter from Rémy Trudel to Alfonso Gagliano, federal Minister responsible for the Canada Mortgage and Housing Corporation, Québec, January 8, 1998.

486. Press release by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, Ottawa, December 8, 1999.

for creating more favourable conditions for the development of the economy and employment among Aboriginal Peoples.[487]

The Rights of Québec's Aboriginal Nations: See paragraph 402.

d) French-Speaking and Acadian Communities of Canada

463. The government of Québec reiterates its commitment of solidarity with the French-Speaking and Acadian Communities of Canada. For many years now Québec has understood that this commitment regarding the French language within its territory obviously cannot be dissociated from a commitment of solidarity with the International Francophone Community, but even more so with regard to French-Speaking and Acadian Communities.[488]

e) Trade

464. Since Québec is resolutely committed to the opening of markets, to the greatest possible elimination of barriers, to the fluidity of commercial exchanging of goods, services and capital, and the free movement of people both internationally as within a present and future framework of partnership with the other governments of Canada, the government of Québec wants to be a highly active stakeholder in the Agreement on Internal Trade.[489]

465. The government intends to work towards the reinforcement of the Québec-Canada economic space by pursuing efforts for implementing the Agreement on Internal Trade (AIT) while privileging the making of bilateral economic agreements such as those entered into with Ontario and New Brunswick.[490]

Common economic space: See also paragraphs 425, 428 and 454.

f) Criminal justice system for young persons

466. The government of Québec maintains that the federal reform of the criminal justice system for young persons is neither necessary nor justified and that it runs the risk of endangering the rehabilitation model that Québec has set up. Québec requests the federal government that it may keep the current system provided under the Young Offenders Act.[491]

467. The National Assembly asks the Federal Minister of Justice to suspend the passage of Bill C-3 [on criminal justice for young persons] in order to

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[487] *Partnership, Development, Achievement. Aboriginal Affairs: Québec Government Guidelines*, 1998; Press release by Guy Chevrette, Minister of State for Natural resources, Minister for the Regions and Minister responsible for Aboriginal Affairs, Québec, April 2, 1998.

[488] Declarations by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, made on the occasion of the 1997 Forum francophone de concertation, Press release, Québec, March 14, 1997.

[489] Speech by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs, at the time of reviewing budgetary credits 1996-1997 of the Secrétariat aux affaires intergouvernementales canadiennes, Québec National Assembly, *Journal des débats of the Commission permanente des institutions*, April 30, 1996, CI-10, p. 3 (quotation) [Translation].

[490] Ministerial declaration by Jacques Brassard, Minister responsible for Canadian Intergovernmental Affairs on Canadian intergovernmental relations, Québec National Assembly, *Journal des débats*, December 4, 1997, p. 9088 (quotation) [Translation].

[491] Letter from Linda Goupil, Minister of Justice and Attorney General, to Anne McLellan, federal Minister of Justice and Attorney General for Canada, Sainte-Foy, May 3, 1999.

allow her to make a better assessment of the implementation by the provinces of the measures provided for in the Young Offenders Act and to ensure that Québec maintain its intervention strategy, which is based on the needs of young people and which favours prevention and rehabilitation.[492]

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[492] Unanimous resolution of the Québec National Assembly dated December 1, 1999 (quotation).

Declaration by Adélard Godbout, Prime Minister of Québec, during the debate on the Act respecting an Agreement between the Governments of the Dominion and of the Province of Québec for the suspension of certain taxes during the war, Québec Legislative Assembly, April 1942.

[Translation]

The Leader of the Opposition has brilliantly expounded a cause that does not exist. I would like to repeat word by word, if I had the eloquence to do so, all of the words he has uttered about provincial autonomy. We don't wish to sacrifice any of the province's rights. Never, for any consideration, be it on a primordial point or a secondary one, shall we consent to ceding a portion of the rights and privileges that are guaranteed us by the federative pact. This pact must be honoured in its integrity.

But absolutely none of this applies to the measure that is before the House. I am one hundred per cent for ceding nothing. Everyone is. What does the bill say? We are not ceding the right to tax, but we are temporarily suspending the levying of two taxes. Ottawa will collect these taxes in return for a compensation that works in our favour. And we can put an end to this agreement with one month's notice whereas the federal government can put an end to it only one year after the end of the war.

One may ask why the federal government is consenting to an agreement that is so advantageous to us. The reason is clear. The federal government wishes to increase the taxes that we will let it collect for a while. Because of the war, Ottawa needs more revenue. A tax surplus is required. I do not agree with the Leader of the Opposition when he says that this surplus should come from the sales tax, which weighs more heavily on large families in particular. I would rather have the increased burden borne by the corporations, first because they are better able to bear it and second because the corporations are profiting from the war through an increase in their business. [...]

Source: Réal Bélanger et al., *Les grands débats parlementaires*, Sainte-Foy, Les Presses de l'Université Laval, 1994, p. 167-168.

Opening statement by Maurice Duplessis, Prime Minister of Québec, before the Federal-Provincial Conference on the Constitution, Ottawa, January 10 to 12, 1950 (extract).

[Translation]

[...]

It is fitting, as we see things, now at the very outset of this vitally important conference, that the attitude of Quebec be clearly defined and not leave any room for serious or frank doubt.

In principle, the Province of Quebec is absolutely in favour of a Canadian court, made up of Canadians, sitting in Canada and judging as the last appeal, in conformity with the spirit of the federative pact, for all Canadian issues that may be submitted to it. Moreover, the Province of Quebec is absolutely in favour of an essentially Canadian constitution, conceived and drafted in Canada by Canadians and for Canadians, based on the federative spirit and very soul of the British North America Act of 1867.

I say these things at the very beginning so that there may be no reasonably possible misunderstanding or disagreement on this subject. We are firmly convinced that during this conference, more than ever if possible, straightforwardness and frankness are vital, because we consider that straightforwardness and frankness are essential for national unity, well understood by all, and that they constitute an indispensable basis for the enduring prosperity of the country and the provinces.

I am not participating in this conference as the head of a party, and I do not consider the Prime Minister of Canada at this conference to be the head of a party.

I am participating in the deliberations of this conference as the Premier of the Province of Quebec, and I consider that the Right Honourable Louis St-Laurent is here as the Prime Minister of Canada.

We wish that all issues be studied and decided in light of these principles and that partisan politics of whatever kind not be welcome here, for this must be a privileged place for sound and fertile patriotism.

It seems to us that at this time, various amendments to the Canadian constitution are welcome, but it is our staunch conviction that the spirit of the Canadian constitution must be integrally respected. From our standpoint, all constitutional issues should be analyzed at this conference, and not just the part of the constitution that federal authorities have initially submitted to the delegates' consideration. The very important part of the constitution that was recently decided unilaterally by the federal Parliament should also be among the number of subjects submitted to the delegates' analysis and decision. In our opinion, the Canadian constitution forms an organic whole and the only way to respect it resides in its unity, which means respecting the foundations of its unity.

In all frankness and without any ulterior motives, it is our opinion that it is not reasonable and it is not in conformity with a true comprehension of national unity, which is what we all desire, that the federal authority appropriate for itself the right to unilaterally choose the arbitrators called upon to decide on the respective rights of each party. We believe this to be absolutely contrary to British "fair play" and to the very basis of the federative regime. We want to cooperate with all of Canada for its success as well as for the progress and prosperity of the provinces, but not without respecting the rights of each one. We understand that in the constitution there are among its clauses less important ones, we remain nonetheless aware that there are fundamental clauses such as, to mention but a few of them, those concerning language, religion, education, civil law and property rights. It is our firm belief that in the area of fundamental clauses, no honest compromise is possible and Quebec cannot and must not either directly or indirectly participate in compromises of this kind.

We from Quebec have come here hands wide open, not to give up or abandon our rights, but to engage with each and every delegate a warm handshake and to work together for the betterment and prosperity of the country and the provinces, while integrally respecting each and every one of them.

[Text]

[...]

We fully realize the vital importance of this conference. At the very outset, I think that some brief statement of facts should be made so as to do away with any reasonable doubts or suspicions concerning the attitude of the Province of Quebec. The Province of Quebec is heartily in favour of a Canadian constitution decided upon in Canada by Canadians and for Canadians, and amendable through appropriate constitutional and fair methods. We are most anxious to co-operate in finding and applying such methods of amending the Canadian constitution for the real and lasting benefit of the central and provincial authorities. We are heartily in favour of a Canadian tribunal, composed of Canadians, sitting in Canada and having the power to decide in last resort, but according to the very spirit of the constitution, the claims which could be submitted to it. These fundamental principles having been clearly stated, it is appropriate for us to express to the other delegates the views of the Province of Quebec. It is also important that there should be a frank statement of policy.

In the Province of Quebec we consider that the British North America Act does not create our rights, but only confirms and reasserts the rights of our province. Confederation was not born spontaneously; it is the result of years and years of study and deliberation and the very essence of Confederation is made of sovereign provincial authorities, within the scope of their jurisdiction, and of a sovereign central authority, within the scope of its jurisdiction. When Confederation was discussed and decided upon, it was based on the principle of complete provincial autonomy. And this for excellent reasons, the most important of which is that Confederation is not only from its very beginning, an agreement between four pioneer provinces but it is a sacred covenant between two great races whose friendly co-operation is essential to the weal and prosperity of all concerned. This fundamental principle cannot and should not be tampered with. To our mind there cannot be any compromise whatever when it comes to decide the kind of administration suitable to Canada. I firmly and definitely believe that Canada is and should always be a federation of autonomous provinces. Apparently there seems to be agreement on all sides on this point—but in fact this is not so. Some people declare themselves in favour of provincial autonomy but do not seem to agree when we contend that provincial autonomy cannot exist without definite and indispensable fiscal powers and that it is useless to have a declaration of rights if, at the same time, there is no financial and fiscal power to exercise those rights. I believe that Confederation should be what the Fathers of Confederation intended it to be, in good faith, that is, sovereign provinces within the limits of their jurisdiction and a sovereign central government within the limits of its jurisdiction. There are some who, for what seems to us to be excellent reasons, think that the British North America Act is a treaty of union between two great races; others are of the opinion that it is only a law. I firmly believe that Confederation is a treaty of union between two great races. Irrespective of these differences, the fact remains and cannot be reasonably denied that Confederation is the result of an agreement between four provinces which was ratified by Westminster. Without agreement on the Resolutions there would never have been the Act of Westminster, there would never have been Confederation. The fact is undeniable that the Canadian constitution is founded essentially and fundamentally upon the agreement of the four provinces pioneer provinces. Lord Carnavon, in the House of Lords, and Mr. Adderley, in the House of Commons, when introducing the Act at Westminster, declared it to be a treaty of union. The Province of Quebec would never have agreed to enter into Confederation had it not been made abundantly clear, at that time, that the guarantees upon which Confederation is based were to remain and last. This opinion is not a personal one, it is not only the opinion of the Province of Quebec; it is the considered opinion of very many Canadian and English statesmen and jurists.

The problem we are called upon to study and discuss is not a particular one, it is not a political problem. It is a national problem and we wish to consider it as such. In my humble opinion, the federal authority should submit to the conference not only part but the whole of the constitutional problem. This would be conducive to more friendly relations and more friendly co-operation. There can be no denying the fact that Canada cannot prosper and will not prosper and Canadian unity, well understood, will not be realized if there are still doubts and suspicions on fundamental questions. Let us all be friends, let us all be good Canadians. This country of ours is much bigger than any one of us. No man in this world is brilliant enough to have a monopoly of science and knowledge. Let us, in a friendly way, exchange our views; co-operation is not a one way street. Let us all work together, study our problems and find the best possible methods of settling them on a sound, friendly and constitutional basis.

In Quebec, as elsewhere, we have a real desire for a great and prosperous Canada and for great and prosperous provinces. We ardently wish every province to be happy, and we consider that the best way to achieve the desirable and desired end is by fully respecting the soul and spirit of our constitution, that is to say by having a real federal system based on a federal authority and provincial authorities having, not only the power to legislate and administer but having also the clear and essential financial powers sufficient not only to deal with the present, but to cope with the future, because to govern is to foresee.

Quebec believes in responsible government and we contend that there cannot be responsible government without indispensable financial powers. Bearing in mind these fundamental principles I am convinced that we can arrive at a fair and appropriate solution of our problems.

I congratulate the Prime Minister of Canada for having decided to hold the present conference, and I can assure all the Prime Ministers and all the delegates here that every one can rely on the wholehearted and loyal co-operation of the Province of Quebec in seeking, finding and applying the best possible methods that will insure completely and definitely the rights, prerogatives and liberties of the central authority and the provincial authorities.

Source: *Proceedings, Federal-Provincial Conference on the Constitution*, held in Ottawa, January 10 to 12, 1950, p. 14-17.

Declaration made by Maurice Duplessis, Prime Minister of Québec, upon the first reading of Bill 43 on the implementation of a provincial income tax, Québec Legislative Assembly, January 14, 1954 (extract).

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[Translation]

It is obvious that in the past few years, Quebec has taken giant steps in its development. It is just as certain that this extraordinary progress requires new and numerous public services. [...] We want to do even more for our universities, our secondary school institutions, in all for the entire educational system. We wish to do even more to assist our hospitals, to add to the generous contribution of the government to the substantial expenses required by Social Assistance. We also desire and want to increase the number of homes for our aging citizens. In all, it is our profound desire to complete and perfect the many initiatives in the provincial sector in general, and in particular regarding public health, education and social legislation. [...]

Since 1945, for more than eight years now, in order to cooperate with federal authorities we have not exercised the province's rights in matters of income tax, because of the hope of reaching a federal provincial agreement capable of ensuring to each party an equitable and appropriate distribution of financial and fiscal powers. Now in these current conditions, it is not fair for the province to exercise a part of its financial and fiscal powers in order to answer public needs, especially in the vital areas of provincial administration. We are convinced that the people of Quebec will be delighted to contribute to the development of our province, to ongoing progress in education and public health in the province. The purpose of this Bill is to procure the revenue required for meeting the needs of the situation.

While income tax constitutes a source of direct taxation reserved to the provinces, at least for granting them priority, under the current law we are only exercising a part of the provincial rights. In fact, the provincial tax laid down by this act represents far less than the fifteen percent tax levied by Ottawa in the Province of Quebec. Any person of good faith will agree that less than fifteen percent of the federal tax collected in the province to meet the province's obligations in particular in two vital areas of provincial administration, namely public health and education, is no exaggeration, far from it. Less than fifteen cents to the province and more than twenty-five cents to Ottawa, this is far from being excessive! [...]

Source: Réal Bélanger et al., *Les grands débats parlementaires*, Sainte-Foy, Les Presses de l'Université Laval, 1994, p. 172.

Statement by Jean Lesage, Prime Minister of Québec and Minister of Finance and Federal-Provincial Affairs, on shared-cost programs, Federal-Provincial Conference, Québec, March 31, 1964 (extract).

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Quebec had decided, since 1960 (July Federal-Provincial Conference), to put an end to joint programs. This stand was again expressed at the Federal-Provincial Conference of November 1963.

The joint programs in force have certainly acted as a stimulus to the economic and social growth of the country. In several cases, they have provided a substitute for provincial initiative.

However, conditional grants paid by the federal government to the provinces in connection with joint programs administered by the provincial governments present all types of difficulties. We understand that when the federal government decides to participate in such programs, it requires that certain conditions be complied with by the provinces; these very conditions give rise to several complications.

The existence of these joint programs signifies a loss of efficiency or work duplication and higher administrative costs. The provinces must have a staff whose specific task is to give accounts to Ottawa on the manner these programs are carried out. The federal government must, in turn, employ officials to make sure that the conditions which it has stipulated have been respected by the provinces. In this connection, Ottawa has often the last word on disputed points.

To this, must be added the fact that shared-cost programs are generally conceived without prior consultation with the provinces. By acting in this fashion, the central government does as if it were a better judge than the provincial administrations of the values and the needs of the population. And yet, the provincial administrations have a far superior knowledge of the needs of their own population.

Moreover, we estimate that the provincial administrations, given sufficient financial resources, could henceforth show the same creative initiative and the same efficiency which, in certain circumstances, the federal government may have evidenced.

From an economic point of view, one must note that conditional grants linked to joint programs represent, in practice, unconditional gifts to the rich provinces. As a matter of fact, it is probable that the latter would, in any case, have provided for their populations the services rendered by joint programs. From that point on, the rich provinces can free an amount equal to the federal contributions and allot them to items of their own choosing. It is even possible that, circumstances permitting, the conditional grants would permit these provinces to maintain a lower taxation rate than that which it would otherwise have reached.

In the case of the less wealthy provinces, the opposite could take place. To benefit by federal shared-cost programs, these provinces must at times reduce other items on their budget to free funds which they need in order to pay their share of joint programs. Possible financial discrimination ensues in favour of subsidized services to the detriment of those which are not.

The constitutional problem brought up by joint programs is serious. In practice, the existence of these programs reduces the initiative of the provinces in the spheres of activity which the constitution recognizes as their own and it even distorts the order of priority which the provinces would like to establish in their own expenditures. Furthermore, most of the time, joint programs aim at assuming the cost of undertakings which, normally, should come under provincial jurisdiction.

However, for easily understood political reasons, it is difficult for the provinces to refuse the grants linked with shared-cost programs. These grants thus become a compulsion which, for all practical purposes, places the provinces in a state of subordination vis-a-vis the central government. As a matter of fact, if some of the provinces, because of their constitutional position, do not want to submit to the conditions established by the central government, they are seriously penalized because they are deprived of sums to which their citizens have nonetheless contributed. Above all, it is this situation which, since 1960, has forced Quebec to participate in several joint programs. However, this participation has always been for us but a makeshift solution while waiting for a satisfactory solution to this problem. We believe that the time has now come to solve this question once and for all.

Source: Government of Quebec, ***Statement by the Honourable Jean Lesage, Prime Minister, Minister of Finance and of Federal-Provincial Affairs,*** Federal-Provincial Conference, Quebec, March 31st, 1964, p. 64-65.

Selected extracts from the book *Un Québec fort dans une nouvelle Confédération* by Jean Lesage, Prime Minister of Québec, June 1965.

•••

[Translation]

••• The basis of the Quebec attitude

But what, indeed, forms the basis of our attitude?

First of all, we share two facts that are obvious to any casual analysis. The first is that the French-Canadian group that constitutes the vast majority of our province, is nonetheless only a minority when compared with the rest of the Canadian population. Obviously, it is an important minority that has been settled in this country for many centuries, which in turn bestows on it specific rights and obligations. The basic right, which it demands be preserved, is the maintenance of its traditions and cultural characteristics. Its main duty, as a group French in language and culture, is the well being and development on the American continent of the human heritage for which it is responsible and is its custodian. [...]

The second fact to which one must continuously refer if we wish to understand the meaning of our current demands, is that Quebec - the political expression of French Canada - exists and evolves within a specific political regime. Quebec exists within the tangible reality of daily life and this reality influences it in its behaviours and attitudes, as would be the case for any group of human beings. Yet Canada, of which Quebec is one among its ten provinces, has a confederative regime that guarantees - and anyone requiring further convincing need only consult the British North America Act - that guarantees, I repeat, to the minority whom we are the respect for the rights to which I have alluded.[...]

From our standpoint in Quebec, one of the purposes of the confederative regime - one that is implicitly found in our Canadian Constitution - is to make it possible for ethnic groups to maintain and especially develop their inherent characteristics. Had this not been the case, it can be said with certainty that the French Canadians in 1867 would have never accepted to join in the Canadian Confederation.

To satisfy its purpose, the confederative regime presupposes a distribution of powers and responsibilities. As such, in our country, significant sectors requiring action have been set aside for the provinces since it has been deemed that for various reasons provincial autonomy in such areas would allow the French-speaking group and the English-speaking group to develop more freely. The fact that other provinces have joined Confederation since then does not change this initial objective at all. And as I just stated, the French Canadians of 1867 saw in this provincial autonomy one of their primary demands.

All this explains why today, Quebec objects each time it notes that the central government has moved into areas of activity that, from our standpoint, belong under provincial jurisdiction. Quebec sees in these trends a serious danger in gradually losing some of the guarantees that it demands be found in the confederative regime to which it agreed to live in 1867.

Quebec fears that in the end, the rules of the game will in some way be changed unilaterally. And then, we would be in a situation that was not foreseen in 1867 and that is not acceptable at this time.

This is why we must exercise continuous vigilance. No one in Quebec believes that one specific measure - assistance to municipalities, the contributory retirement program, or federal assistance for education, for instance - will by itself lead French Canada to assimilation into the English-speaking majority. No one either believes that one of these measures would be such as to threaten our entire cultural heritage. Yet we must systematically oppose any federal initiative whatsoever that does in fact reduce or diminish the provincial field of jurisdiction. We absolutely cannot, even in the case of apparently secondary issues, remain passive to federal initiatives that we deem are harmful to the exercising of powers entrusted to the provinces. In fact, it is the aggregate of these measures that must be considered and it is each and every one of them that makes up the whole that we must oppose, because each one of them thwarts in some way the provinces' autonomy, an incursion that constitutes a precedent that one tends to invoke thereafter to justify other, even greater, incursions.

••• The Five Principles

I now want to state - quite briefly - a few of the principles that guide us. I think that they provide all the needed answers for those who today, either because they do not agree with us, or because they fear that our current momentum will falter, or simply because they are afraid, watch us act and question what we are doing.

To begin with: **the first principle.** We believe that Quebec is the political expression of French Canada and that it plays the role of the homeland for all in our country who speak our language. I have probably made this observation a dozen times everywhere throughout Canada.

As such, **the second principle** is that our province has its own traits of character, its own personality, that it must preserve and that it is entitled to promote. As for this specific personality, the Prime Minister of Canada has himself recognized it. Likewise, I have spoken clearly in these terms how many times I don't know.

The third principle. We live in a constitutional framework which, through evolution and self-improvement, must enable our community to achieve alone and by its own suitable means the objectives that it has freely set for itself. This possibility for self-achievement was recognized at the time of Confederation in 1867 and it must be carried on, even if this means that to do so, the constitutional regime of Canada must adapt to new conditions.

The fourth principle. Quebec today must possess and control insofar as possible the economic, social, administrative and political levers that alone will allow it to make materialize its legitimate aspirations as an adult people.

The fifth principle. Actions undertaken in today's Quebec must be carried out in peace and justice while taking into account the North American reality in which it lives, the ordinary and desirable bonds that link it to other French-speaking nations and the economic and commercial relations that it maintains not only with the rest of Canada, but also with many other countries worldwide.

Source: Jean Lesage, *Un Québec fort dans une nouvelle Confédération*, ministère des Affaires fédérales-provinciales et Office d'information du Québec, 1965, p. 26-29 (which reproduce extracts from speeches given in Fredericton on October 10, 1963, and in Montréal on September 20, 1964).

Speech by Paul Gérin-Lajoie, Vice-President of the Québec Executive Council and Minister of Education, to the Members of the Montréal Consular Corps, Montréal, April 12, 1965.

Without doubt, this is the first time that a member of the Quebec Government has been official host to the Montreal Consular Corps, the largest in all Canada.

I shall not try to conceal the personal pleasure which I feel. In my capacity as Vice-President of the Quebec Executive Council, I might add that I interpret the honour which you are conferring upon me, today, as a measure of your interest in the evolution of our federated state—the State of Quebec.

You constitute, in our area, a society of high distinction which assures among us the presence of friendly governments. Doubtless, you exercise your functions by virtue of the Federal Government's authorization; but, in certain respects, you are closer to the Quebec authorities than to those which have accredited you to act in your official capacity.

Actually, not only is the jurisdiction of a majority among you limited to districts which are entirely contained within Quebec territorial boundaries but, also, your jurisdiction has to do in a large measure with areas of responsibility falling strictly within the competence of our federated state.

According to the latest Vienna Convention (Article 5, paragraph b), consular functions consist in encouraging the development of commercial, economic, cultural and scientific relations between the state represented and the state of residence. Again, in the case of those of you who exercise your jurisdiction here, the state of residence is easily identified; it is Quebec.

Further, the same convention states that your functions entitle you, among other things, to act in the capacity of notary and registrar, to safeguard the interests of minors and the incapacitated, originating in the state you represent, and to transmit judicial and extrajudicial documents, or to execute rogatory commissions. Conversely, according to the convention, these offices can be discharged only to the extent that they are permissible under the laws and regulations of the state of residence.

Actually, a number of the most important aspects of your mandate in Canada apply to areas of strictly provincial competence and thus create between the governments of the federated states and yourselves, actual ties which our own Government, for its part, recognizes in entirety. As an example, I might refer to the existence, since 1961, of an Order-in-Council (No. 2012), which, by virtue of reciprocity, gives many privileges of a fiscal nature, such as exemptions from income taxes and succession duties, to career consuls stationed in Quebec.

Furthermore, Quebec itself possesses an embryonic foreign consular service in the persons of the delegates-general who represent it and exercise functions which are very often analogous to your own. In two cities—London and Paris—the Quebec delegates-general benefit in practice from the immunities and privileges which through law and custom are habitually extended to consular officials. It is thus the intention of our Government to propose, to the states concerned, a reciprocity of treatment similar to that, by virtue of the order-in-council to which I referred above, which is now enjoyed by career consuls exercising their functions in Quebec.

Quebec is not sovereign in all domains: it is a member of a federation. But, from a political point of view, it constitutes a state. It possesses all the characteristics of a state: territory, population, autonomous government. Beyond this, it is the political expression of a people distinguished, in a number of ways, from the English-language communities inhabiting North America.

Quebec has its own vocation on this continent. As the most populous of French-language communities, outside France, French Canada belongs to a cultural universe having its axis in Europe and not in America. By virtue of this fact, Quebec is more than a simple, federated state among other federated states. It is the political instrument of a cultural group, distinct and unique in all of North America.

During the past few years, Quebec society has been transformed to a degree that, even yesterday, no one would have thought possible. Filled with a new spirit and superabundant energy, this society, predominantly French in language and culture, knows that from now on the realization of its own ends and aspirations lies within its reach.

On every side, Quebec is breaking out of its traditional structures and is on the march toward a destiny in keeping with its own individual characteristics. In every field of activity, the Quebecer has thrown himself furiously into action; he recognizes that the concept of a particular destiny pre-supposes the existence of material and constitutional means for the attainment of this destiny. This collective attainment of maturity that Quebec society is experiencing is paralleled by an individual maturity of its citizens. The Quebecer has assumed his responsibilities and has taken his fate within his own hands.

The economy, natural resources, education, community and social organization, have been the main fields of action of the new Quebec citizen. I shall note simply by way of landmarks the creation of the Departments of Education, of Natural Resources, and of Cultural Affairs, the setting up of the General Finance Corporation, the nationalization of electricity, the approaching creation of a siderurgical complex, of a universal pension plan and its investment fund which will soon be a reality, along with the introduction of hospitalization insurance as a forerunner to a complete system of sickness insurance.

At the same time, by virtue of its energy and enthusiasm, Quebec has greatly changed the Canadian political balance. For example, since 1960, numerous interprovincial conferences and federal-provincial conferences have played a major role in the evolution of the balance of power; these have given Quebec an occasion to prove that the goals, the aspirations and the priorities which it has set do not always necessarily coincide with the goals, the aspirations and the priorities of other regions in our country.

I would like to refer to an example which touches you very closely. At Paris, a little more than a month ago, I signed an agreement on educational matters with representatives of the Government of the French Republic. Since that time, this agreement has been the subject of great interest and numerous commentators have professed astonishment at the "precedent" which it represented in matters diplomatic and constitutional. Actually, this event specifically demonstrated Quebec's determination to take its rightful place in the contemporary world and to provide, in external as well as internal affairs, all the means necessary for the realization of the aspirations of the society for which it stands.

This sudden ebullition in Quebec, this impulse toward the future, this awakening of collective conscience—outside observers have called it "the quiet revolution." A revolution less quiet than its name; above all, a revolution in comportment and, by this token, a profound and irreversible revolution.

Should this social revolution necessarily be paralleled by a revolution in the constitutional field? It has become evident that the division of tasks, established during the last century between the federal and the federated states, is no longer satisfactory, at least for Quebec. It has also become evident that the people of Quebec feel hemmed in by century old constitutional limitations, the interpretation of which often lags behind the facts.

As you know, a Quebec parliamentary commission is currently engaged in a study of the new needs of our federated state and will bring in recommendations to the Legislature with reference to constitutional amendments which it deems indispensable to the growth and development of Quebec's society. Already, there are areas in this subject on which unanimity seems to be emerging.

It must not be thought, however, that any evolution is impossible until such time as the necessary constitutional changes have been determined. Careful note should be taken that the constitution which Canada was given in 1867—and which has been tested on numerous occasions in the courts since that time—assigns to Canadian provinces the status of states fully and absolutely sovereign in certain definite domains.

In support of my thesis, I shall cite the following extract from a judgment by the Privy Council handed down in 1883:

> *"These (the provinces) are in no way the delegates of the Imperial Parliament, nor do they act by virtue of any mandate received from the latter. In decreeing that Ontario had a right to a legislature and that it rested with its legislative assembly to adopt the laws for the province and for provincial purposes relative to the subjects mentioned in Article 92, the British North American Act conferred upon it not such, powers as might be proper for it to exercise by delegation, or as agent of the Imperial Parliament, but as complete and broad an authority, within the limits prescribed by Article 92, as the Imperial Parliament in the fullness of its attributes, possessed and had the power to confer. Within the limits of the above-named subjects, the local legislature exercises a sovereign power and possesses the same authority as the Imperial Parliament or the Dominion Parliament would have under analagous circumstances..."* *

In other words, the surging activity manifested by the State of Quebec during the past five years in areas untouched up to that time, should not in any way seem revolutionary from a constitutional point of view.

Actually, Quebec is only using the powers which it possesses. I would go as far as to say that Quebec is only beginning to make full use of the powers which it possesses. The fact that it has neglected to use these powers in the past, does not mean that they have ceased to exist. In all the domains which are completely or partially within its competence, Quebec plans to play a direct role, in keeping with its individual characteristics and the full measure of its rights.

The present governmental action derogates, perhaps, from habit, but there is no derogation in a constitutional sense. It represents rather the emergence of a new state of mind—I should say, rather, the new expression of a state of mind and of a desire for liberty which, in a latent state, has not ceased to exist during the last two hundred years.

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* *Hodge v. The Queen*, (1883) 9 A.C. 117. Cited in French in O'Connor, *Senate Report*–1939.

I mentioned a short time ago the surprise caused by the signing of an agreement on education between France and Quebec. This agreement is completely in keeping with the established constitutional order. Actually, the Canadian Federal Government is in a unique position with regard to international law. If it possesses an incontestable right to deal with foreign powers, the implementation of agreements which it may conclude concerning matters under provincial jurisdiction lies beyond its legislative competence. This was the decision, nearly thirty years ago, in a judgment handed down by the judicial committee of the Privy Council, a judgment which has never been set aside.

At a time when the Government of Quebec is fully aware of its responsibility for the realization of the particular destiny of Quebec society, it has no desire to abandon to the Federal Government the power of implementing agreements in matters falling under provincial competence. Furthermore, it is fully aware of the fact that there is an element of absurdity in the existing constitutional situation.

Why should the state which puts an agreement into execution be unable to negotiate and sign it? Is an agreement not concluded with the essential purpose of putting it into application, and should those who will have to implement it not have the right to work out the conditions in advance?

In the matter of international competence, the Canadian Constitution is silent. With the exception of Article 132, which has become a dead letter since the Statute of Westminster, in 1931, there is nothing which says that international relations are solely under the jurisdiction of the federal state. Therefore, it is not by virtue of written law, but rather by repeated practice over the past forty years, that the Federal Government has assumed an exclusive role with regard to relations with foreign countries.

There was a time when Ottawa's exclusive exercise of international powers was scarcely prejudicial to the interests of the federated states, inasmuch as the field of international relations was fairly well defined.

But, in our day, this is no longer so. Interstate relations now touch every aspect of social life. This is why, in a federation such as Canada, it is now necessary for those member groups, who wish to do so, to participate actively and directly in the preparation of international agreements with which they are immediately concerned.

I repeat that there is no reason why the right to implement an international agreement should be dissociated from the right to conclude this agreement. This is a case of two essential steps in the one, single operation. Nor is it admissible, any longer, for the federal state to exert a kind of supervision and adventitious control over Quebec's international relations.

Parallel to the full exercise of a limited "jus tractatum" claimed by Quebec, there is equally the right to participate in the activity of certain international organizations of a non-political character.

A large number of interstate organizations have been founded for the sole purpose of bringing about a solution, by international cooperation, of problems which up to now have been purely local in nature.

Further, the multiplication of exchange of all kinds between countries has necessitated the direct of indirect intervention of the modern state so that these exchanges may be made basic elements of progress of understanding and of peace between peoples. In many fields which have now assumed international importance, Quebec wishes to play a direct role in keeping with its true countenance.

Along with all contemporary societies, the countenance of Quebec is changing at an ever-increasing pace. Not only is it unthinkable, but it is impossible to halt or retard the rhythm of this transformation. It is therefore our institutions which must evolve in keeping with this new countenance of our society.

Certainly, within the existing constitutional framework, there are possibilities for the improvement of some of our institutions which have given us suitable service to the degree that we have known how to use them suitably. On the other hand, there are others which will require extensive changes, to say nothing of a general revision of the constitution itself.

At present, there is talk of the repatriation of this constitution. It is obvious that such repatriation could in no manner be considered as a finishing point, as an outcome desirable in itself. In a long term political view, such repatriation would constitute a starting point, the first step in a process of modernization of which the need is becoming ever-increasingly apparent—of a modernization which should take place in Canada by means of entirely Canadian instruments.

The Quebec parliamentary constitutional committee has, since its creation, been concerned with the necessity for revising the constitution in such areas as that of the status of the Lieutenant Governor and of the Supreme Court with regard to civil and constitutional law, along with the field of linguistic rights, of banks and economic affairs, of radio and television, of international competence and any number of other subjects. The list of areas in which changes are necessary is far from being complete. Above all this, it is not only in the division of powers that a revision is necessary; it is at least equally so in the spirit and structure of our institutions.

On the other hand, while this search for renewed constitutional forms is going on, the people of Quebec and its Government—this I reaffirm—are quite determined to use existing constitutional machinery, fully and unremittingly, to assure the development of Quebec according to the cultural and social objectives which it has set for itself.

As you have doubtless sensed, Gentlemen, I have not discussed these problems with you with a view to asking you to participate in their solution. I have spoken of them only to show you the great importance which they have, and which they will have to an ever-increasing degree, in the evolution of the country and of the federated state where you are stationed. Above all, I have spoken to you of them so that you may see the spirit in which Quebec faces the future and how it intends to represent and fully serve a people which possesses a growing consciousness of its own cultural and social identity and is manifesting a steadily-strengthening will to follow its own destiny within the world of today.

Source: Press release, Department of Education, Quebec, April 12, 1965.

Opening statement by Daniel Johnson, Sr., Prime Minister of Québec, given at the first meeting of the Constitutional Conference held in Ottawa, February 5, 1968.

[Translation]

Québec thanks the Prime Minister of Canada for calling this conference, which is but the logical follow-up of the dialogue initiated in Toronto last November.

We readily agreed to take part in it even though the items on the first agenda submitted for our consideration did not seem the most urgent or the most essential in present circumstances. Later, the Prime Minister of Canada accepted to widen the scope of the conference so that it would cover the constitutional problem as a whole, for which we are grateful.

At the Toronto conference, which all Canadians had the opportunity to attend through the television medium, we limited ourselves to examining and bringing into better focus a few of the basic elements of Canada's constitutional problem. Nevertheless, a new climate can already be felt which, of course, in itself is not a solution but which does encourage us to continue, with ever greater hopes, our search for an answer.

Personally, I was very impressed by comments which reached me from every corner of Canada after that historic meeting. I believe that during the past few years, thanks to the soul-searching and efforts of a great many Canadians of both cultures, much has been accomplished to breach the wall of misunderstanding which has divided our two solitudes for so long, that invisible, purely psychological barrier which, at times in our history, has proved harder to cross than many physical barriers.

In this era of interdependence and great ensembles which foster togetherness while pointing out differences, at a time when the prodigious development of communications is gradually shrinking the world we live in, it seems clear to me that Canada, with her cultural duality, her two international languages, her European affinities and her North American situation, can rightfully be expected to play a leading role in establishing peace and fraternity between men. But, how could she possibly live up to this expectation without first solving her own internal conflicts? How could Canadians promote better understanding between others if they themselves prove unable to understand each other?

In my opinion, our constitutional problem is as much a matter of communications as of structures. This psychological aspect of the problem is all the more important in that nothing we might achieve here or in subsequent endeavours would have the least chance of success without a general consensus on the part of the Canadian people. We are past the time when a constitution could be drafted by the select few behind closed doors, then forced upon the population in autocratic or paternalistic fashion. Days of colonialism have long gone and it is only natural that Canada, a sovereign country, should not go beyond the Canadian people in search of the supreme authority.

I would like to repeat in English these last two paragraphs. We do not claim to speak for French-speaking Canadians in other provinces but we wish to speak in the name of all Québec people, of whom 20 per cent are English-seaking.

Now, we all know that the Canadian people is not homogeneous. Although the adamant few still refuse to admit it, we all know that Canada is made up of two nations. What purpose can be achieved by closing our eyes on this basic fact, which is supported by history, sociology and the collective will to live together?

Perhaps it has become for some people a purely academic exercise to ponder whether the British North America Act is or not the result of a pact, but there is no room for doubt as far as the future is concerned: in order to be valid, a new Canadian constitution will have to be the product of an agreement between our two nations.

And I believe that we shall all be the better for it.

To begin with, the new constitution will be the authentic work of Canadians. For the first time in our history, we shall have a constitution made entirely in Canada, by Canadians and for all Canadians.

This new constitution of our own invention will have the further advantage of conforming to today's realities and needs. We live in an era of extremely rapid change; so much so that, during the last few years, almost every great human institution has begun the process of self re-examination and self redefinition required in response to new conditions. In this context, ours is one of the rare countries in the world which has not yet rewritten its constitution; and I can hardly think of any which, once independent, wished to retain the constitution it was given when it was still a colony.

Our constitution will also stand a better chance of being clear if it is couched in contemporary language to answer today's concerns. In some respects, the British North America Act was based on a fundamental misunderstanding. Our two cultural communities have never agreed on the interpretation to be placed on some of its essential provisions or on a number of its omissions. This has provoked countless conflicts, nearly all of which were pointless since, after a century of discussions, disputes and frustrations of every description, we are still wondering what these conflicts were really all about.

Thus, French Canadians greet with some astonishment the proposal to recognize French as an official language now, after a hundred years of Confederation, because they have always taken for granted that both our languages were official in Canada.

I simply cannot conceive that we might go on quarrelling for another century over the meaning and scope of our constitution. We need every last bit of our energy and resources to carry out desperately urgent tasks, particularly in the economic sector, on which the well-being of all Canadians depends.

This is why we need a constitution which will be a source of harmony and no longer of misunderstanding; a constitution which will describe things as they are and meet problems head on, instead of skirting them; a constitution with every provision written clearly and in full as befits a federal constitution; a constitution containing its own amending formula, but sufficiently sound and permanent to avoid being constantly challenged; a constitution which will depend for final interpretation on a tribunal whose composition will be such that no one will be tempted to question its impartiality.

In order to be realistic, this constitution must be conceived as the principle for organizing not only the ten-partner Canada but also the two-partner Canada. We see no objection in the fact that, in relation to certain problems, there should be ten provinces juridically equal despite their geographic and demographic dissimilarities; but on the other hand, we see no reason why, despite their numerical inequality, the same constitution should not give both de facto and de jure recognition to the equality of our two cultural communities.

Our new constitution must therefore take into account what the Laurendeau-Dunton Commission and the Prime Minister of Canada himself so aptly called "the political dimension of cultural equality." In fact, it is not enough to extend the use of French in federal institutions and acknowledge for French minorities in other provinces collective rights comparable to those already enjoyed by Québec Anglophones; this is only a partial solution. Above all, French Canadians must be able to use their majority position in Québec to provide themselves with the organizations, the institutions and the environment which will be perfectly suited to their culture and their aspirations.

Besides, the Laurendeau-Dunton Commission clearly stressed this necessity in the General Introduction preceding Book I of its Report. This introductory section is a document of major importance which throws remarkable light on the root of Canada's constitutional problem. For this reason, we have quoted several of its paragraphs verbatim in our brief, including these passages on "the collective aspect of the notion of equality." It is a question here, according to the Commissioners, of:

> *...the degree of self-determination which one society can exercise in relation to another....the extent of the control each has over its government or governments. This is the basis for the discussion of the constitutional framework in which the two societies can live or aspire to live...*
>
> *...But as soon as the minority is aware of its collective life as a whole, it may very well aspire to the mastery of its own existence and begin to look beyond cultural liberties. It raises the question of its political status. It feels that its future and the progress of its culture are not entirely secure, that they are perhaps limited, within a political structure dominated by a majority composed of the other group. Consequently, it moves in the direction of greater constitutional autonomy. Ideally, the minority desires the same autonomy for the whole of the community to which it belongs; but where it cannot attain this objective, it may decide to concentrate on the more limited political unit in which it is incontestably the majority group.*
>
> *This viewpoint, so hotly opposed by some, is deeply entrenched in Québec. It has even been, in recent years, at the root of some of the most spectacular, if not the most serious, manifestations of the crisis in Canada. To ignore it in this Report would not only constitute an error; it would very likely mean that Québec would refuse to listen to us, and the English-speaking Canada would be deprived of the chance to become aware of an especially grave element in the present situation.*

If there is a lesson to be learned from our history, it is this; French Canadians in Québec, who make up eighty-three per cent of Canada's French-speaking population, cannot be expected to entrust the direction of their social and cultural life to a government in which their representatives are in the minority and which is also subject to the workings of Cabinet responsibility and party discipline. Of course, they want a central government to handle problems common to both communities or questions which have no bearing on distinctive cultural or sociological traits; but Québec is where they spontaneously wish to turn for decisions pertaining to the establishment of the conditions necessary for development of their own personality and dynamism.

Indeed, this is the price of equality, for how could two cultural communities be equal if one had to depend on the other's good-will for its survival and growth?

In other words, if in a ten-partner Canada Québec is a province like the others, the situation is different in a two-partner Canada. As the homeland and mainstay of French Canada, Québec must assume responsibilities which are peculiar to her; and it goes without saying that her powers must be proportionate to her responsibilities.

Does this mean that Québec must have a juridical status different from that of the other provinces? In itself, such a formula is not incompatible with federalism, whose essential characteristic is precisely its adaptability to all situations; but we are aware of the difficulties it would create and the misapprehensions it could cause. This is why, without rejecting a priori any other formula able to give our two communities the necessary freedom of action, we have already stated our preference for a constitution sufficiently decentralized to take into account Québec's own situation without, however, preventing the other provinces from entrusting to the federal government in part or in whole those duties they would prefer not to assume alone. Obviously, a new mechanism would be needed to divide fiscal revenues fairly according to each government's responsibilities.

We are convinced that such a system would leave Ottawa with all the authority it needs to carry out its obligations to Canada as a whole, particularly if the new constitution asserted the principle of participation as well as the principle of autonomy. These two principles, we all know, are the two fundamental laws of any workable federalism.

According to the principle of autonomy, member-states of a federation are given legislative and fiscal powers by the constitution itself and not by the federal state. Relations between the two orders of government must be on a level of co-operation, not subordination. I feel very strongly that in certain circles too little confidence is being place in provincial governments. Generally speaking, the historical and popular roots of these governments are found in the distant past, in some cases long before Confederation itself. The population spontaneously identifies with them. They are in a very good position to solve imaginatively and realistically the problems created by an evolving contemporary society. For these reasons, we feel that there should be no fear in giving residual powers to the provinces in Canada, as is done in most other federations of the world.

As for the principle of participation, it requires that member-states do take part in the federal decision-making process. This implies that one of the federal organs be a direct emanation of the federated states. Ordinarily, the Senate should play this role. If the central government reflected more adequately the principle of participation, both its prestige and authority would be strengthened.

If I have not so far talked about a declaration of rights, it is not because we question its importance but because we believe it cannot logically be set apart from the constitutional problem as a whole.

A very clear distinction must also be made between individual and collective rights. The former cannot be separated from civil rights, and must consequently come under provincial authority. We are now drafting a charter of human rights which we shall incorporate in Québec's internal constitution. As for collective rights, we certainly wish to see them proclaimed and guaranteed in the Canadian constitution; but we believe it is still more urgent and more efficient to embody them in our federal and provincial institutions.

That is something Québec has always done. She has never sought to interpret restrictively sections 93 and 133 of the Constitution. She did not wait for the adoption of a charter of human rights before establishing equality throughout her territory for our two cultural communities The Laurendeau-Dunton Commission Report corroborates this on several occasions. It is difficult to imagine a greater degree of freedom and self-determination than that which the English-speaking minority in Québec has always enjoyed. And we fully expect it to remain thus in the future. We would be very happy if from now on the French minorities in other parts of Canada could be accorded the same treatment.

In other respects, I want to reiterate that we have never sought to impose the French language on Canadians in other provinces where there is no need for it. We completely agree with the Laurendeau-Dunton Commission that, in a country like ours, it is the governments and the public services which must be bilingual wherever a sufficiently large number of Canadians of both cultures live together. And institutions are bound to bilingualism precisely because they must preserve the citizen's normal right to serve his country and to receive its services in his own language.

Some people are already gambling on our inability to come to any understanding. Are we going to turn up the missing card in their deck—the admission or proof of our failure?

Others also speculate on our failure, for totally different reasons. They are the ones who think that problems will take care of themselves if their existence is denied; that a light replastering job, refurbished here and there by a thin varnish of bilingualism will satisfy everyone; and that continued talk of national unity will cause the Canadian duality to disappear.

Let us have no illusions: in Canada the basic problems will not be solved by shifting subordination. To be more precise, let us say that the elimination of subordination to another country will not automatically eliminate the danger of subordination to a central government which would claim the right to political hegemony.

Were it repeated ad infinitum, no one—at least among my fellow Quebecers, who have been here for over 300 years—could be made to believe that Canada began in 1867. Nor can anyone be made to believe that constitutions are immutable. We are already on our fourth in two centuries; why should it be impossible to draw up a fifth? Why should Canadians be incapable of accomplishing something which so many other countries, many of them infinitely more complex than Canada, have done successfully?

I am among those who believe that Canadians have enough insight, heart and will-power to find the solution to their problems and the key to their future. To sum up, Québec submits:

1. That the time has come four our country to give itself an entirely Canadian constitution made in Canada by Canadians and for all Canadians;
2. That this new constitution, as well as any future amendments to it, should be drafted and promulgated on behalf of a sovereign people without recourse to another country's parliament;
3. That the object of this constitution should be not only to federate territories but also to associate in equality two linguistic and cultural communities, two founding peoples, two societies, two nations in the sociological sense of the word;
4. That it is in no way necessary to break up the ten-partner Canada to build a two-partner Canada, but that it has become essential and urgent to create a two-partner Canada in order to maintain the ten-partner Canada;

5. That Book I of the Laurendeau-Dunton Commission Report on the official languages, as well as those still to be published, should be studied in the light of facts and principles brought forth in the General Introduction which to us is the most significant part;
6. That the equality to be established between our two cultural communities depends not only on extending bilingualism territorially but even more on extending the jurisdictions of Québec, the homeland of the French-Canadian nation;
7. That the root of Canada's constitutional problem will not have been tackled in a concrete and realistic manner until a study has been undertaken of a new distribution of powers between the two orders of government;
8. That a constructive way to review this distribution of powers would be to begin with fields where there is immediate urgency: social security, relations with other countries and international organizations, instruments of education and culture as well as the various theories and formulas which tend to give indefinitely expanding powers to the central government;
9. That the question of fundamental rights is closely linked with the constitutional problem as a whole and thus no decision can possibly be taken in this respect before agreement has been reached on certain basic reforms, particularly on the creation of a true constitutional tribunal;
10. That consequently, the next step should be to institute federal-provincial commissions, meeting simultaneously with the aid of a joint secretariat to be set up without delay and working in co-operation with the interprovincial committee formed at the Toronto conference, and whose work could be divided into five main subject-matters:
    a) official languages and fundamental rights;
    b) distribution of powers;
    c) reform of the Senate, the Supreme Court and the other institutions linked with the federal system;
    d) fiscal incidences and regional inequalities;
    e) amendment procedure and provisional arrangements.

Québec knows the complexity of the task that lies ahead. We must innovate to a large extent and build a new type of country. This cannot be accomplished in a matter of weeks, nor even months. Still, we must remember that time is not on the side of today's Canada. The Canada we want to build for tomorrow will be for the young people of this country. The Québec delegation is not here to settle old scores, but to prepare the future and as long as we continue to act there will be hope. If we cannot agree now, could we expect to agree after separation? The answer to this question lies in its very formulation.

Mr. Chairman, so that nobody watching television will be in doubt as to the guilty party, let me be the one to right your "Canada" sign which someone—I don't know who—knocked over a moment ago.

Source: *Constitutional Conference, Proceedings, First Meeting, February 5, 1968, Ottawa*, Queen's Printer, 1968, p. 53-71; Government of Québec, *Opening Address by the Honourable Daniel Johnson, Prime Minister of Québec*, Canadian Intergovernmental Conference, Ottawa, February 5, 1968.

Opening statement by Jean-Jacques Bertrand, Prime Minister of Québec, given at the second meeting of the Constitutional Conference, Ottawa, February 10, 1969 (extract).

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[Translation]

[...]

I would like [...] to pay a brief tribute to the man who headed Québec's delegation when this conference began its work in February 1968. You all know without my telling you what vital importance my predecessor and good friend, the late Daniel Johnson, attached to constitutional problems.

His most cherished ambition was always to see our country adopt its own entirely new, all-Canadian constitution, one capable of ending the misunderstandings which divide us and of putting the harmony between our two cultural communities on solid foundations.

There were those who wondered how the sudden disappearance of Mr Johnson might affect Québec's constitutional policy. While the style may change, it should be obvious that the substance of that policy cannot vary that much. Men may come and go, but the reality of Québec endures.

Thus I have not come to water down, much less to contradict, the many statements, briefs and other official documents which expressed Québec's attitude to this vital problem before or after the June 1966 general elections. I have come to support and throw more light on the proposals we have already made and also to show how urgently these solutions are needed.

In May 1963, when I introduced a motion in the Québec Parliament to institute a Parliamentary Committee on the Constitution, I did so out of a sense of urgency, a feeling obviously shared by my colleagues on both sides of the House, since the motion was adopted without a dissenting voice. We were all alive to the seriousness of the crisis which, in its Preliminary Report published two years later—in February 1965—the Commission on Bilingualism and Biculturalism–Dunton-Laurendeau Commission—was to describe as "the greatest crisis in our history" one "which threatens the very fact of Canada."

Much more is involved in this crisis than human rights or the linguistic rights of minorities. The trouble lies far deeper and is more fundamental. To quote the Commissioners, "the vital centre is in danger: we mean the will to live together". And in the same serious vein, they added that "Canada has come to a time when decisions must be taken and developments must occur leading either to its break-up, or to a new set of conditions for its future existence."

I know that these comments made by the Dunton-Laurendeau Commission, at the time they were made public, were the subject of spirited discussions on the Canadian scene, and that politicians did not take them seriously. But we in Québec, and Mr. Laurendeau in particular, who was one of the Dunton-Laurendeau report's draftspersons, who was well versed in the problems of Québec, believed in them without a doubt since he signed the report.

Fortunately, the Confederation of Tomorrow Conference which Ontario convened in November 1967, by the Premier, Mr. Robarts, afforded us our first opportunity to embark on a thorough study of the question. Then, meeting here in February 1968, we agreed on the need to review together the various aspects of the constitutional problem, including the one Québec delegates consider most basic, that of the division of powers.

[...]

Ours is not the only province which would like to see the Constitution amended and I think that I am not far from the truth when I say that all provinces unanimously agree on the following objectives:

a) repatriating the Constitution;
b) establishing amendment procedures;
c) revising the distribution of tax fields and tax revenues;
d) reducing regional economic disparities;
e) setting up the machinery for co-operation and adjustment through delegation of powers or otherwise.

Nor is Québec the only province suffering from flagrant disproportion between her responsibilities and her sources of revenue. And I believe that this last sentence I just pronounced is just another expression, Mr. Speaker, of what you have just heard from the Premier of Ontario, and that you will hear from all the premiers of the Canadian provinces. In a nutshell, Québec is not alone in insisting on provincial autonomy.

However, I might add that, besides the reasons common to all provinces, Québec has special grounds for valuing her autonomy. And these go far beyond the development of a linguistic heritage. Indeed, language is not only a mode of expression: first and foremost, it is a way of thinking or—better still—a way of life. The Canadian duality therefore does not come merely from a difference in language; above all, it is due to different ways of approaching, feeling and reacting when confronted by events. A French Canadian, is not the same as an English Canadian differing only as to the tongue he speaks. And, if I recall Murray Ballantyne's words at a conference on Canadian affairs held at Laval University in Québec City in 1961 when he—who is perfectly bilingual—said that "if I speak French, I feel as though I am another person." A French Canadian speaks differently because he is different.

Now, whenever an important issue is discussed between two groups that feel and react in such different ways, we witness the Québec Government instinctively identifying itself with the French-speaking majority in Québec, and the government in Ottawa instinctively identifying itself with the English-speaking majority in Canada, whatever the language or the cultural background of those who, in a given circumstance, constitute authority. Such is the iron rule of democracy which we cannot escape.

We would therefore, Mr. Speaker, be merely scratching the surface if we were to equate Canada's constitutional problem with a question of personal or linguistic rights. I am not saying that these rights are unimportant; what I am saying is that they do not reach the root of the problem which brings us here today.

If there is a crisis in Canada, it is not because our country is made up of individuals who speak different languages; it is because Canada is the home of two communities, two peoples, two nations between which relations need to be harmonized.

The important thing for French Canadians from Québec is not to be allowed, as individuals, to speak their mother tongue even in regions of the country where it has little chance of being understood; what they want is the opportunity to live together in French, to work in French, to build a society in their image and to be able to organize their community life so that it will reflect their culture. And this cannot be achieved unless the Government of Québec has powers proportionate to the responsibilities it is expected by its population to shoulder. Without Québec, there might still be French minorities, but French Canada would not longer exist.

What we are seeking together, therefore, is the constitutional system most likely to reconcile the free growth of Canada's two cultural communities with the requirements of economic solidarity. And since it is mostly in Québec that one of these two communities can ensure control over its destiny, the problem may be summed up by asking: what must be done to have a strong Québec within Canada?

I believe that the best answer to this question still lies in a federal system of government, provided however it is an authentic federal system, not a deceptive front.

In order to achieve this authentic federalism, we must see to it that the distribution of powers between the two orders of government is not left to the goodwill of a central authority, but is based on a written constitution, recognized and respected by all as the country's fundamental law. In other words, there has to be priority of the Constitution over the two orders of government, not priority of the central power over the federated states. Otherwise, even if we were to decentralize at the administrative level, we would still live within a unitary state, not a federal system.

At the present time, as a result of the evolution of society and the major part played by governments in activities which would have defied imagination one hundred years ago, it is absolutely essential and it is becoming increasingly urgent to re-examine the entire question as to how powers should be distributed between the central and the provincial governments.

Our present Constitution—I almost said our old Constitution—is silent on so many matters that it often gives us no inkling as to which sector of government is responsible for which field of endeavour. Moreover, as the Premier of Ontario observed a while ago, this is normal: the Founding Fathers of Confederation had no way of imagining what the course of evolution would be in the one hundred years from 1867 to 1967. And above that, it is not always abided by. Thus in the long run, thanks to its financial resources, the federal government ends up with actual jurisdiction overt matters where Québec's interest is vitally important.

This question is equally pressing for the other provinces. We all bear witness that our present Constitution has not stood in the way of systematic and authoritarian federal encroachment upon provincial jurisdiction, encroachment which, during the last few months, has assumed unprecedented proportions, abetted as it is by federal pre-emption of revenue sources at a moment when all the governments closer to the people suffer an increasingly paralysing want of financial means.

The present federal government, strengthened by its lion's share of tax funds—a situation against which we can never protest too strongly as being unjust and contrary to the legitimate aims of the provinces, thinks it can meddle everywhere: in educational radio and television, in cultural matters, in urban affairs, in off-shore mineral rights, in securities, in higher education, in university research, in water, air and soil pollution, in highway transportation, in foreign affairs even when they relate to education and other matters under provincial jurisdiction, in community development and even in civil law through succession duties. In its eyes, one would imagine that provincial governments are, at best, administrative units expected always to play second fiddle to a rich, all-powerful and overbearing federal power.

Nothing proves this better than what seems about to take place in the field of health, and it has been our opportunity to discuss the matter in two federal-provincial conferences of Finance Ministers, the one held in November and its follow-up last December—which is clearly a provincial matter, and for which the federal government would extract money from tax-payers in all provinces so as to set up a system of which the vast majority are now in no position to take advantage. Contrary to the spirit and the letter of the Constitution, direct taxes are levied for provincial purposes. Provincial government priorities are thwarted. And again as always, the tax-payer is the victim of this taxation chaos. I believe that I come back to the ideas that were mentioned earlier regarding the immediate problems that the provincial governments—and especially the Québec government—must cope with when drafting their budgets; and the Minister of Finance, who is seated at my left, had the opportunity to say as much to his federal counterpart during the December conference, as I myself so said last November. A taxation chaos is being created—and this I repeat—while taxpayers are as always in the end the main victims.

What is more, this taxation chaos has both economic and constitutional repercussions which we cannot overlook. The Québec Government is acutely aware that it must help give its people the economic tools they still lack, just as it is painfully aware of the wide disparities to be found between its different regions. And it knows it must make sustained efforts to spur development in more than one field.

But how can it possibly do this when the present division of tax revenue in Canada prevents it not only from taking sorely needed economic actions but frequently from discharging as fully as it would like all its constitutional obligations? The taxation problem is therefore inextricably bound up with constitutional review, since availability or lack of adequate financial resources is the one factor which determines whether each sphere of government can carry out its constitutional responsibilities in the manner expected of it. It is vitally important that the federal government understand what is at stake here—the country's very ability to function properly.

For all these reasons, Mr. Speaker, Fellow Colleagues, we need a completely new constitution, tailored to the ideas and needs of today. This is certainly the most important task we have ever decided to undertake together, because on it, the very future of our country and the welfare of all our citizens directly depend. We may need a bill of human rights, but I say that we need also a bill of provincial rights.

Indeed, constitutional reform offers the only permanent solution for the deep crisis afflicting Canada. We need fresh agreement on basic issues; we must state very clearly the ground rules for relations between governments; we must reconsider the constitutional structure of our country, the form it is to take, the ends it is to pursue, so that our political institutions may not only meet the needs of the hour but those that will arise in days to come. Above all, it has become essential to give French Canada—of which Québec is the mainstay—a deep conviction that it can find in the Canadian federation all the elements requisite for its own development. Because we must recognize that for some time this feeling of confidence has been more and more subject to question and that doubts have crept into the minds of many Quebecers.

This questioning and uncertainty cannot last forever. Choices are inevitable. Movements have already come into being whose avowed purpose is to end the federal experiment. Hence it is more and more pressing to submit for our people's consent a new instrument of liberty and solidarity.

Obviously, Québec has very definite ideas about the main lines that must govern our new constitution. They will be found stated in the various briefs we have presented to past conferences and in the working document prepared by our officials.

We believe that in a country as ours, it would be neither wise, nor human, nor even efficient to wish every thing uniform. We think that, in certain fields, a right of option will always be necessary, not only to give Québec the degree of autonomy it needs but also to allow the other provinces to delegate to, or use jointly with, the central government those functions which they do not care to use alone. It would be, in our opinion, an unfortunate mistake, of which we would all suffer, to insist that in all spheres the same measures apply in the same manner to all the provinces.

To those frightened by the drafting of a new constitution, I merely recall that on it depends the very future of Canada. I myself am convinced that the task is not beyond the intellectual scope, the inventive ability, the strength of friendship inherent in Canadians or either culture.

Source: Text of the opening statement.

Statement by Robert Bourassa, Prime Minister of Québec, on the Victoria Constitutional Charter, Québec National Assembly, June 23, 1971.

[Translation]

Federalism represents for Quebecers the best means for attaining their economic, social and cultural objectives. Quebecers supported this option of the government of Québec during the last general election. In keeping with Quebecers' clearly expressed desire in this sense, the government will devote its efforts to reinforcing Canadian federalism.

As such, it feels that federalism must be decentralized in order to reflect the diversity of the regions of our country. This federalism must also guarantee provinces the freedom of action they need for fully assuming their responsibilities with regard to their citizens.

This federalism must also allow the government of Québec to ensure the cultural future of the majority of its population. Constitutional review is precisely the way for giving us this type of federalism. Works undertaken over the past three years have allowed Canadians to progress in this direction. The recent conference of the First and Prime Ministers constituted a step in the right direction; important progress has been made regarding machinery for patriating and amending the constitution, political and linguistic rights, the status of the Supreme Court.

In the current state of the constitutional reform project, the government of Québec cannot, however, make a positive recommendation to the National Assembly as regards the acceptance of the current Constitutional Charter project.

This decision stems from the need to agree insofar as possible on clear and precise constitutional texts, thereby avoiding a shift of responsibility to the judicial branch, as such responsibility first belongs to the political branch, i.e. to those the people have elected.

As such, the texts dealing with income security still contain an uncertainty that squares poorly with the objectives inherent in any notion of constitutional review. If this uncertainty were to be eliminated, our conclusion could be different.

As such, the government of Québec intends on notifying the secretary of the Constitutional Conference that it cannot accept this draft Constitutional Charter. This decision of the government of Québec is an appeal to every Canadian's capacity for innovation and determination and it urges them to pursue the task they have undertaken to give Canadians a truly modern constitution.

Source: Québec National Assembly, *Journal des débats*, June 23, 1971, p. 2738-2739.

Statement by René Lévesque, Prime Minister of Québec, on the referendum question, Québec National Assembly, December 20, 1979.

[Translation]

From the very outset more than 370 years ago, the people of Québec have never had the opportunity to democratically determine their own future. It is therefore with what I believe to be legitimate pride that on behalf of the government, today I submit to my fellow Quebecers a projected question that will enable them to take a decisive step this coming spring. A step founded upon the logical and noble basis of any accession to national maturity, along with realism and awareness of others commanded also by the circumstances that define our place in history.

In essence, what the government is proposing to Quebecers is a means for them to become fully responsible for their community owing to a new agreement based upon the fundamental equality of each partner in order to attain the dual objectives of providing Québec with the exclusive power to make its own laws and use its taxes, plus the right to participate in the community of nations and, at the same time, to maintain the close and mutually advantageous ties of an economic association and monetary union with Canada.

From the very beginning of a political initiative taken twelve years ago that brought several hundred people together, it became obvious to us that the lines of force had already been clearly set by the increasingly divergent evolution of Québec society and the constitutional regime that had by then been a part of its life for over a century. Indeed, at the quickening pace of the then referred to "Quiet Revolution", Québec tended to assume, or at least petition for, an increase in its powers in order to progressively take charge of its destiny; while on the opposing side, the federal regime reacted to this growing pressure by hardening its resistance to change, and even accentuating the unending craving of all political institutions for broadening their base of power.

Yet since that time, all the statements and propositions that have followed, intended genuinely or factitiously to solve this contradiction, have only made matters worse. The most recent of these smoke screens, which declared—must we recall—that the time to act was upon us, in turn got lost in the upheavals of the federal campaign last May.

As such, unanimity is now taking shape, if for nothing else than the unacceptability of a status quo that is continuously getting in the way of Québec's needs for development and even for its security. One only need think of our current inability—which the highest court has just reconfirmed—to provide ourselves, it we so desire, with an environment essentially as French as Ontario is English. One only need imagine the obstacles that a company controlled from abroad can multiply against the exercising of our undisputable rights that we possess over the exploitation of our natural resources, or the omnipresent dangers that our traditional jurisdictions over taxation may be invaded—under the pretext of a crisis—by a central government in need of funds to cover its deficits. Then there is the issue of our continuously diminishing relative weight—and our corresponding influence—within the Canadian context. A sharp contrast with yesteryear when our numbers enabled us to count on more than a third of the federal MPs, yet in twenty years we won't even have one-fourth of them!

This explains why it is now necessary —without breaking neither the economic ties and the promise that they hold of a better-balanced partnership—to recover all our political powers before it is too late. Not only has federalism until now refused any satisfactory reform, but also from now on it is quite clear that—as far as we are concerned—that it is just not in its nature to lend itself to such dealings.

Whatever may be the real reasons motivating them—conscious illusionism or true illusions—those who still think of "renewing" this regime exclusively between politicians by first discussing with eventual peers (that others will have replaced in time anyway!) the acceptability of proposals that citizens would then see buried in electoral promises—they are the ones who would prepare us inevitably for the same disappointment.

But should it occur that this new refrain by the same old siren, which has never sung anything other than fear of change, might continue to sabotage the historic opportunity before us, the disappointment could this time be dangerously deep and hard to overcome. And the opportunity may not return anytime soon. For if today we are active or sympathizers, hundreds of thousands having prepared it with continuously renewed tenacity, reinforced with the conviction that each step of the way has only intensified the movement, nowhere in this world can such an effort be maintained indefinitely. All the more so at the point where we now stand, not only is the urgency of making a decision ever more obvious, but our best chance for reaching the objective that is proposed and the means for getting there now seem to be a narrowing path and possibly our only chance to build for ourselves a future rather than have it decided for us.

As for the objective to which we have devoted so much energy, and an endurance that has survived so many tests, it has remained much the same as in the beginning. What could be more normal and justifiable since the replacement of the federal system by a community framework is advancing exactly in the direction of an evolution evermore commonplace among modern nations. In all areas of the world, we are witnessing the multiplication of associations between sovereign states that pool their efforts economically while keeping the essential parts of their political autonomy. New federations are becoming increasingly rare while States grouping together are emerging everywhere.

So if our project has essentially remained faithful to itself and has increasingly been confirmed by the experience of others, our procedure has, on the contrary, had to evolve and become more specific as time goes by.

What has especially marked this project is the awareness that we could not sidestep this most fundamental rule among all others that whatever may be the necessary stages, no important political change can be brought about democratically if it is not desired, wanted and eventually triggered and accomplished not simply with, but by a majority of citizens. In other words, by the clear and firm expression of the will of the people.

From the outset, we obviously knew this quite well but took some time to recognized it black on white. This recognition—which in 1974 was expressed by an initial outline of the referendum consultation—would by our actions in 1976 become a precise and central commitment of the government that the electors had put into office. This commitment—as well as all others that we have also attempted not to neglect—will be kept by us this coming spring. After having completed the requisite conditions conferring it with all the necessary legitimacy and solemnity.

Since the necessary conditions for an enlightened debate have now been brought together, and despite the unpredictable brain-storming that has occurred in Ottawa, but which will end on February 18th, the time has now come—in compliance with the promise that we made to disclose the projected question that we have prepared—prior to the adjourning of Parliament.

We believe it to be clear and straightforward and have removed any and all ambiguities. Despite all our efforts to be concise—and some may claim the contrary if they so believe the contrary—essentially to make it more straightforward, the most explicitly possible, this meant that we had to add a bit to the formulation. We felt, indeed, that a short but down-to-earth description of the objective would be well worth a few more lines.

This text does not contain anything that would ordinarily cause a surprise, if not only that one finds a clear-cut commitment for what comes after, a commitment whose timeliness—might I add its necessity—has rapidly come to our attention owing to increasing pressure that has been brought to bear of late. We are laying this commitment directly before you today, for never have we had the intent of asking our citizens for a blank cheque.

It is up to the women and men of Québec to decide on their future, and they must be able to approve of each major step in their constitutional itinerary. It must also be clear that even after the government has been given a mandate to negotiate a new agreement with Canada, no change in political status can be made without the Québec people having the opportunity to specifically approve it via the same democratic means of a referendum.

Hence, it is an explicit question, which asks for the mandate to negotiate not just anything, but a specific agreement whose essential elements may be found in the body of the question, as well as the democratic guarantees that I have just mentioned.

As we promised in the beginning, the question may be answered by a YES or a NO. And as set forth in the Referendum Act, it will be printed on the ballots in French and in English (and where applicable, in Amerindian or Inuit languages).

If the National Assembly approves it during the debate scheduled for the resumption of Parliament, then it will read as follows:

"The Government of Québec has made public its proposal to negotiate a new agreement with the rest of Canada, based on the equality of nations; this agreement would enable Québec to acquire the exclusive power to make its laws, administer its taxes and establish relations abroad - in other words, sovereignty - and at the same time, to maintain with Canada an economic association including a common currency; any change in political status resulting from these negotiations will be submitted to the people through a referendum;

On these terms, do you agree to give the government of Québec the mandate to negotiate the proposed agreement between Québec and Canada?"

By answering this question with a YES, the citizens of Québec will have the opportunity of taking a decisive step towards taking control of their future. This will be a great step forward as are necessarily all other events that lead to responsibility and freedom.

Source: Québec National Assembly, *Journal des débats*, December 20, 1979, p. 4807-4808.

Statement by René Lévesque, Prime Minister of Québec, made at the Meeting of the First Ministers in Ottawa from June 8 to 13, 1980, June 9, 1980.

* * *

During the referendum last May 20, Quebecers, for the first time, exercised their right to self-determination. This was done democratically and legally, and because the Prime Minister and a number of Premiers were personally involved, it was recognized as such by the rest of Canada. The same was true for the international community, which showed a keen interest in the process.

The clear recognition of this right is the most valuable accomplishment of the Québec referendum. Regardless of the outcome, it is now undisputed and indisputable that Québec constitutes a distinct national community which can by itself, without outside interference, choose its constitutional status. Quebecers can decide to remain within Canadian federalism, just as they can decide, democratically, to leave, should they consider this system no longer able to meet their aspirations and their needs. This right—control over its own national destiny—is the most fundamental right enjoyed by the Québec people.

Exercising this right to self-determination is a powerful tool in constitutional change. Even now, it is at the root of the present round of negotiations. It has prompted a great many statements and commitments on the part of Canadian politicians relating to Québec's place in Confederation. It has made the public in the rest of Canada aware of the urgency of reforming the present system. It has played the role of an activating mechanism.

It will play no less a determining role should the present negotiations end in failure. During the referendum, Quebecers did not endorse federalism in a definitive way; rather, they simply gave it a final chance to renew itself, in a manner that would allow Québec to gain the extended powers it needs to ensure its development and assert itself according to its own nature. It will be up to Quebecers to judge the outcome of these negotiations and draw conclusions from them.

Thus it cannot be a matter of relinquishing, in any manner whatsoever, the very precious right to self-determination. Moreover, I feel that Quebecers would repudiate once and for all a leader who would undermine this now-recognized right. Rather, in any new constitutional arrangement, it will be necessary to provide for explicit recognition of Québec's right to self-determination. Definitive and permanent commitments are out of question: Quebecers will always choose to maintain their right to decide their constitutional destiny themselves.

The draft statement proposed by the federal government is unacceptable in this regard, not only because it does not recognize Québec as a distinct national community with the right to self-determination, but also because it denies this basic reality by laying exclusive emphasis on the oneness of the Canadian people and Canadian sovereignty. By adopting such a position, the federal government is returning precisely to the positions it had put forward in previous years, and is breaking the promises it made during the Québec referendum campaign regarding a more open attitude. If this is what was in mind when the solemn promise was made to renew Canadian federalism, it would have been more honest to say so directly. For now, this move backward will quite rightly be interpreted by the people of Québec as another example of the federal government's annoying habit of promising one thing before an election and doing exactly the opposite after.

According to the draft statement of principles proposed by the federal government, Canada is one nation, one sovereignty; the federal tie is indissoluble; Québec does not constitute a distinct national community with the right to freely, without outside interference, choose its national destiny. For us, and we believe, for the majority of Quebecers, Canada is composed of two equal nations; Québec provides one of these nations with its focus and support and, possessing all the attributes of a distinct national community, it has an inalienable right to self-determination. These are therefore two opposing visions of the nature of Canada; they are visions which have often confronted each other in the past and which are at the very root of Canada's constitutional crisis.

Moreover, this fundamental problem is the main reason why, since the 1960s, reforming the Constitution has always been like trying to square the circle. Nonetheless, a solution will eventually have to be found to ensure that this national homeland, Québec, has sufficient control over cultural, social, political and economic tools in order to provide its people—who are now modern and mature—with every opportunity for development. For the French nation centred on Québec, this is the only way that it will be possible to achieve what the draft statement identified very strongly as the sole objective of a political system: "the happiness and fulfilment of each and all of us." In Québec, moreover, we are all in agreement on this point; consider even the Beige Paper of the Constitutional Committee of the Québec Liberal Party, which recommended: "We must affirm the fundamental equality of the two founding peoples who have given, and still provide, this country its unique place in the family of nations. This basic dualism must be consecrated in the supreme document of the country." (p. 22)

This will never come about within Canadian federalism if there is no eventual agreement that Québec's role in Canada must be described as very special. Not in the sense that would mean unwarranted gifts or favours, but rather an entire range of special powers and the right of Québec to exercise them without constraint, relying on its own resources.

May I refer my colleagues back to a number of examples which I mentioned once more last Thursday, in our National Assembly. Most of them are well known.

This quite naturally leads me to comment, finally, on the one concrete aspect of the draft statement: the one dealing with both individual rights and freedoms and language rights.

On the first point, noting from the outset that our attitude bears no intention of being carved in stone, I must say that in our view, the federal government's adamant insistence seems at the very least premature, and quite likely unadvisable. This whole area of rights and freedoms is still, here as elsewhere, in the process of rapid evolution. Constitutional "entrenchment" would inevitably result in complicating this evolution, in making it infinitely more difficult, and in depriving the elected assemblies of the power to guide it along democratically and instead entrusting it to the discretion of the courts. This is precisely what was noted just a few days ago by one of the most distinguished members of the Canadian judicial community, former Supreme Court Justice Louis-Philippe Pigeon, who stated that in considering the eventual effect of an entrenched Charter of Rights, it must be realized that this involves giving the courts a sizeable share of legislative power. It would be wrong, he felt, to believe that this function is comparable to that of interpreting a federal constitution.

He then went on to recall an opinion expressed earlier (1968) by another ultimately prominent member of the Supreme Court, Chief Justice Laskin, who felt that the possibility of an entrenched charter raises serious concerns regarding the balance achieved over the years—by judicial decisions and constitutional custom – between the central authority and that of the constituent states. Then, after citing the, to say the least, questionable consequences of the judicial "activism" brought on by such a charter in the United States, Mr. Justice Pigeon concluded by reminding everyone that there already exists, in Canada, a Bill of Rights which has given the courts powers they had never had before, powers for which they had no experience and no specific rules to follow.* To this I might add, in the case of Québec, a Charter of Human Rights and Freedoms of increasingly remarkable scope, precision and vitality. Why create more rigidity rather than letting evolution take its course?

With respect to the inclusion of language rights in a renewed constitution, I can only repeat, with the same unshakable resolve, the points I made as early as 1977 to the federal Prime Minister:

> "A constitutional amendment would restrict the jurisdiction of the provincial legislatures in the field of education by limiting their ability to legislate in this area. As far as Québec is concerned, my government, as well as all its predecessors, have always felt that the powers we have in education are absolutely vital for the preservation of our cultural identity, and that we must keep intact all the room for manoeuvring we have in this regard in order to adapt to the situation, whichever way it evolves.
>
> To me, this fundamental principle appears irreconcilable with your proposal to subject Québec to a constitutional provision which, even if it were established on a different basis from that of other provinces, would in effect mean relinquishing part of our exclusive jurisdiction in education. Québec will never accept its sovereignty in as vital an area being replaced by limited jurisdiction subject to judicial interpretation. Indeed, it would be unthinkable that the Supreme Court of Canada, which shall always have a majority of non-Quebecer, English-speaking members, should supersede Québec's National Assembly as the ultimate authority with regards to education.
>
> I wish to point out that this attitude is unrelated to our Government's objective of political sovereignty. On the contrary, it is especially within the existing federal framework that these powers in education are absolutely essential for our protection against gradually becoming a minority within Québec itself." **

It would be a serious mistake to try, in the light of the referendum results, to force upon Québec a conception of Canada it has always rejected and fought. If negotiations are to proceed in good faith with a reasonable chance of success, more open-mindedness is required.

Source: *The Constitutional Discussions: Selected Documents*, Committee on the Presidency of the Executive Council and on the Constitution, August 14-15, 1980, p. 38-43.

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* Remarks by Mr. Justice L.P. Pigeon at a seminar held at Laval University, Québec City, May 24, 1980.

** Letter to the Rt. Hon. Pierre Elliott Trudeau, September 9, 1977 [Translation].

Declaration by René Lévesque, Prime Minister of Québec, Federal-Provincial Conference of the First Ministers on the Constitution, Ottawa, November 5, 1981.

[Translation]

HON. RENÉ LÉVESQUE: So, gentlemen, after this hymn to harmony by Mr. Davis, I have to say I deeply regret that Québec today finds itself in a position that has become, in a way, one of the fundamental traditions of the Canadian federal system, as it operates, Québec finds itself all alone.

It will be up to the Québec people, and up to them alone, to draw a conclusion from this.

I came here Monday with a mandate unanimously voted by all parties, a mandate from the Québec National Assembly, which requested from the federal government —and which evidently also requested from our colleagues around the table, but first from the government that introduced the bill before the House of Commons—this resolution to renounce the unilateral nature of the steps being taken and especially to renounce imposing in such a way any infringement of the rights and powers of the Québec National Assembly without its consent, because behind the Québec National Assembly are the citizens of Québec, the source of power. I also ventured to stress the fact that the federal prime minister and his government were acting this way without any explicit mandate, without any mandate of any sort from the citizens, not only of Québec, but also of the rest of Canada.

And, from this standpoint, the apparent compromise offer spectacularly made yesterday morning, i.e., the referendum offer, struck us as interesting, because on the surface it may have been a democratic way to break the impasse, to give all citizens —who are the only source of power and nobody around this table has equivalent powers—to give the population an opportunity to decide and it was also at the same time the only federal proposal that could respect the mandate we had received from the Québec National Assembly. Beginning yesterday afternoon, the federal prime minister himself endeavoured, as it were, to destroy this offer as he went on to make the details clear. Yet, if Mr. Trudeau were serious, if he were sincere and straightforward at this point in time, he could renounce imposing this proposal on us in Québec in a way that, for us in Québec, still remains unilateral. From this perspective, he could hold his cherished referendum. Nothing prevents him from doing so. He needs no agreement from any of us around this table. In any case, without that, for our part, we'll have to conclude that Mr. Trudeau has deliberately chosen, to bring English Canada on side, a move that has the effect of forcefully imposing on Québec a reduction in its powers and rights without its consent, although all parties represented in the National Assembly have already, unanimously, rejected this formula.

As for the amending formula, which is here in front of us, signed by the other ten governments, there no longer is, for all useful purposes, what represented for one hundred and fourteen years, since the beginning of Confederation, the essential guarantee of protection of Québec's rights and powers, i.e., a meaningful form and not a punitive form of the right of veto. As for mobility—which is the constitutional transposition of the federal government's effort last year throughout the negotiations to impose centralizing powers over the economy—as for mobility, the formula here in front of us still threatens to harm our legislative powers in this area that the Québec people needs as much as anyone.

And finally, as for our exclusive powers in education, we've been left with a right not to be imposed upon. By removing, however, four lines from the proposal put forward this morning in the private conference, an element of permanent blackmail of Québec has been introduced with respect to the possible renunciation of its exclusive powers and its exclusive right to decide what it does in the area of its culture and identity and, at the source of all of this, in the area of access to its schools. I fully heard just now the intentions of goodwill on this point, from the federal prime minister: time could be taken to find better formulas, perhaps this or that could be adjusted; I give you my word or something similar that I'll strive to do. But only in the event that one didn't know—unless that has changed—notice was given this morning, around 11 o'clock that the House of Commons will begin the so-called final debate on this resolution as of tomorrow morning; and I don't very well see, after the four days we've just spent here, how concretely could be achieved—I'm sorry, Mr. Federal Prime Minister, I haven't interrupted you for a single moment—

CHAIR (HON. PIERRE ELLIOTT TRUDEAU): Not tomorrow.

HON. RENÉ LÉVESQUE: Not tomorrow? When? But anyhow that's what you said yesterday.

CHAIR: No, no, not yesterday. There was no agreement.

HON. RENÉ LÉVESQUE: Ah! Yesterday it was that. Today it's something else.

CHAIR: There was no agreement yesterday.

HON. RENÉ LÉVESQUE: Fair enough.

CHAIR: There's one this morning.

HON. RENÉ LÉVESQUE: Fair enough, fair enough, we shall see. In any case, seeing that this will profoundly change the resolution, the federal draft before the House of Commons, there's no longer any reason for artificially limiting this debate to two days. And I call upon—in particular the ones from Québec—I call upon Quebecers in both federal houses, from whatever party they belong to, not to ram through in two days a bill that has been cobbled together so recklessly and that will still trample on Québec's rights profoundly. Yet, we came here to bargain in good faith. We didn't hesitate to take part in compromise offers on the basis of which it appeared possible to us until the last, no, until the last minute yesterday, to work out areas of consensus to everyone's satisfaction, including us from Québec. I first—this is a brief outline of how far we've gone—I first put the obvious question flowing from the National Assembly's motion to the prime minister: Are you ready to renounce unilateralism, and in every way renounce taking any power and any right from Québec without its consent?

The answer is in front of us in an agreement by the other ten provinces. The answer is no.

I then asked whether the agreement that eight provinces had backed since April 1981 would not be an honourable way out, i.e., the cherished repatriation that has become a symbolic obsession and also an amending formula that would respect in practice Québec's right of veto, without changing anything to the rights and powers it has been recognized as having for 114 years, and everything else would await a new round of negotiation. The answer is in front of us. It's no. We then participated with the same seven other provinces, the eight of us, in developing a new compromise including, this time, a substantial part of the proposed charter, but a part of the charter that could not trample on Québec's rights and powers in any way, in our opinion. The compromise was submitted to the federal prime minister, as we know. We know the answer. It was no.

Then the federal prime minister himself, in a surprise move that I've referred to and that initially seemed promising, supposedly opened up to a referendum solution, but he himself attached so many conditions to it that it became in reality a pure balloon, one made to be deflated. Finally, this morning, before leaving the meeting, I put two final questions, on our behalf, to the federal prime minister and to all of our colleagues here. And these were the questions: first, you proposed yesterday that in the absence of consensus this federal proposal would not come into effect with respect to either the amending formula or the charter of rights, since without the support of the majority of the Québec people—because in the referendum formula you proposed yesterday, a referendum would be held on a basis that has always been Canada's tradition, i.e., on a basis of four major regions, one being Québec by itself. Today, of course, you have the agreement, Mr. Federal Prime Minister, of the other provinces on a draft agreement, but you don't have Québec's agreement. You therefore don't have a consensus from everyone, in the sense that this appeared necessary to you from the referendum standpoint you yourself defined. Would you be ready to undertake not to impose this proposal before it has been put to the Québec people and before a majority of this people has accepted it? The answer was: No, of course we're the ones who retain the right to consult the Québec people. Finally, to get to the last point, this is my last question and the last contribution we've made to this negotiation, I asked this: you yourself, Mr. Federal Prime Minister, and several of our colleagues, in a very heartfelt, even eloquent way, and that appeared to us sincere at the time, you acknowledged that for 114 years, for reasons that constitute Canada's duality in its entirety, you acknowledged that Québec ought to have this fundamental guarantee that its right of veto represents with respect to the rights and powers it already has in the current Constitution. It was agreed upon by eight provinces in a signed agreement that this right of veto could reasonably be maintained—we agreed to it, even though our government was criticized—could reasonably be maintained on the condition that if one decided to exercise this right, there would be financial compensation and that one would not be penalized for exercising a right of veto.

Now, this agreement has been completely emasculated. Nine, ten governments have just signed an agreement that includes for Québec a right to opt out, a right of option with regard to any change to these rights and powers, but we will be financially penalized each time if the federal government so wishes.

Fortunately or unfortunately, three lines have even been coyly removed from the initial text of the signed proposal. The three lines stressed the consequences of this emasculation of the eight-province agreement: "This change would mean that a province opting out would have to bear the financial consequences of its act."

This change, i.e., the elimination of any financial compensation if a right of veto is exercised, this change would mean that a province that would exercise this right should bear the financial consequences. It is clear from this that even if they've been removed, these three lines clearly represented and defined the spirit and consequences of the common proposal you now have.

In closing, I would like to express thanks for the time we've been together and during which I've had the impression, I had the impression that it was a cooperative effort that could even acquire a certain permanence. For this time we've been together, I would like to thank

my colleagues from the seven other provinces for the cooperation we've succeeded in maintaining for over a year. All good things, however, so it seems, always come to an end. Today, Québec is back to its traditional position. Alas, we're not the ones who've sought that. Things have ended up with us alone in our corner. All of this is rather sad. I don't think it's sad only for Québec, perhaps even more for Canada. It means another hardening of the system for us—the straightjacket it represents—because we must not forget the traditional positions not only of Québec but also for some years of the other provinces, too—the straightjacket that the current federal system represents, as it has become. The intent is to tighten it further on us by reducing powers and guarantees that were already woefully inadequate. There's absolutely no question of a self-respecting Québec government accepting such a change. Neither the current Québec government nor your servant will ever capitulate on this point. Never will we agree to anyone taking away any power and especially any powers that are both traditional and fundamental, without our consent, and I repeat that we'll use all of our remaining means to stop this from happening.

Source: Secrétariat des conférences intergouvernementales canadiennes. *Conférence fédérale -provinciale des premiers ministres sur la Constitution: compte rendu textuel.* Ottawa, 2 au 5 novembre 1981, p. 101-109.

Speech by Gil Rémillard, Minister for Canadian Intergovernmental Affairs, given at the Symposium on "Rebuilding the Relationship: Québec and its Confederation Partners," Mont-Gabriel, May 9, 1986.

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> "Nothing less than Québec's dignity is at stake in future constitutional discussions." *(Mastering the future, p. 49)*

To begin with I would like to thank the Institute of Intergovernmental Relations and the École de l'administration publique for having invited me to this seminar and for having given me the opportunity to participate in your work. It is certainly promising to see the Institute of Intergovernmental Relations of Queen's University at Kingston and the École de l'administration publique of Québec associate to organize such a seminar. This association is entirely to the credit of these two teaching and research establishments and I congratulate their respective directors, Mr. Peter Leslie and Mr. Jocelyn Jacques.

The theme of the seminar "Rebuilding the Relationship: Québec and its Confederation Partners" could not be more apt. As constitutional talks resume between Québec, Ottawa and the other provinces, this type of forum can prove very useful. Therefore, I am pleased as minister responsible for constitutional matters to share with you the overall orientation the Québec Government intends to promote in its talks with its partners in the Canadian federation.

April 17, 1982 is a historic date for Canada. It was on this day that Elizabeth II, Queen of Canada, proclaimed the *Constitution Act of 1982* on Parliament Hill in Ottawa. After more than 55 years of difficult discussions which, on some occasions, even plunged Canadian federalism into profound crises, Canada cut its last colonial tie with London. It also took advantage of the opportunity to substantially amend its constitution by adding a charter of rights and freedoms, an amending formula, aboriginal peoples' rights, an equalization principle, and a modification in the distribution of power in matters concerning natural resources.

Little remains to be said on the fact that the *Constitution Act of 1982* marked the end of the last vestige of Canada's colonial status. Canada has been a sovereign country since the Statute of Westminster of 1931. However, since the British North America Act of 1867 did not include an amending formula and since, at the time, Ottawa and the nine provinces disagreed about how to fill this very important gap, it was agreed that London would act as trustee for certain parts of the Canadian Constitution. As we know, this role was really very much a matter of form. Westminster always acted at the request and according to the specifications of Canada. This role was also temporary since the provinces and Ottawa anticipated soon agreeing on an amending formula.

Many Canadians would certainly be surprised to learn that, from a strictly legal point of view, London could renege on its decision and once again make Canada a colony by amending the Statute of Westminster of 1931 and the *"Canada Bill"* of 1982. However, as Lord Denning put it in his famous obiter dictum in the *Blackburn* Affair, "legal theory does not always coincide with political reality". This is clearly a utopian consideration which is nevertheless possible in law strictly construed since a choice was made to proceed via Westminster rather than acting by Canadian Proclamation.

As we know, nothing obliged Canada to ask Westminster to put an end to the last vestige of its colonial status. The Canadian Parliament and the provinces could have unilaterally proclaimed their independence and the changes they intended to make sovereignly to the compromise of 1867. Resorting one last time to the old colonial mechanism, facilitated the possibility of Ottawa acting without the provinces' agreement since the Canadian Parliament had the power to act alone to amend the Canadian Constitution legally, if not legitimately, as clarified by the Supreme Court of Canada in its famous September 28, 1981 patriation reference.

We should also mention that resorting to the old colonial mechanism made it all the easier for Ottawa and the other nine provinces to disregard Québec despite its refusal to accept these fundamental changes to the Canadian Constitution. This refusal has no judicial consequence since the Constitution was patriated legally. The *Constitution Act of 1982* applies to Québec despite its disagreement, however, the political consequences are very real. Since it does not accept the *Constitution Act of 1982*, Québec refuses to vote on any constitutional amendment. For instance, we refuse to vote on any amendment proposal dealing with the Senate, entrenching property rights in the charter, or making changes to the rights of aboriginal peoples, with whom we sympathize greatly.

Clearly, Québec does not object to the fact that Canada recovered full jurisdiction over its own constitution from London. What we do object to is that patriation was used as a pretext for substantially modifying the Canadian Constitution without taking Québec's historic rights into consideration.

Four years after the proclamation of the *Constitution Act of 1982*, Québec, headed by a new government, still does not adhere to this act. No Québec Government, regardless of its political tendencies, could sign the *Constitution Act of 1982* in its present form. However, if certain modifications were made, it could be acceptable to Québec.

The Québec Government therefore hopes that constitutional talks will be resumed. However, conditions have not been satisfied for beginning serious, formal constitutional negotiations. Certain points must be clarified first. For instance, Ottawa must indicate what, in its words, might be meant by signing a constitutional agreement "with honor and enthusiasm", as stated by the Prime Minister of Canada, Mr. Mulroney.

It should be stressed that it is not only up to Québec to act. Our federal partners must not sit back idly; we expect concrete action on their part, action that is likely to steer the talks in the right direction. The ball in not only in Québec's Court but also in that of the federation that isolated one of the main partners that created it in 1867. We wish to talk with partners, who must begin by showing concrete proof of their desire to make good the injustice that the *Constitution Act of 1982* represents for Québec.

This is not the time for listing the errors committed by one side or the other. Instead, it is time for cooperation and understanding. Québec will tackle these constitutional talks determinedly and firmly but also with an open mind, as dictated by the higher interests of Québec and Canada. However, you will agree with me that Québec's isolation cannot continue much longer without jeopardizing the very foundation of true federalism.

Nor is it time for giving a backhand sweep and starting all over again. Absolutely not. Not everything contained in the *Constitution Act of 1982* is negative. After four years of being interpreted by our courts, the Charter of Rights and Freedoms, for instance, is, on the whole, a document which we, as Quebecers and Canadians, can be proud of. Its greatest merit no doubt lies in gradually giving us a new outlook on the respect of human rights. This is why our first decision as the new government last December was to stop systematically using, as the former government had done, the "notwithstanding" clause in Québec statutes, to depart from sections 2 and 7 to 15 of the Canadian Charter. We want the fundamental rights of Quebecers to be as well protected as those of other Canadians.

The only valid reason for systematically using the departure clause could be as a symbol, a symbol of Québec's disputing the *Constitution Act of 1982.* We feel that this symbol is empty of meaning. We do not have the right to take Quebecers hostage for the purposes of constitutional talks. As Québec's Government, we refuse to deprive our people of such fundamental constitutional rights as: the right to life, liberty and security of the person, the right to a just, fair trial and equality rights. Without in any manner accepting the *Constitution Act of 1982,* we wanted to be fair to Quebecers, who are also full-fledged Canadians.

If the Canadian Charter poses few problems for being acceptable to Québec, the same is not true for other aspects of the *Constitution Act of 1982* which, in many respects, opposes Québec's historic rights.

On December 2, 1985, the population of Québec clearly gave us the mandate of carrying out our electoral program, which states the main conditions that could persuade Québec to support the *Constitution Act of 1982.*

These conditions are:

- Explicit recognition of Québec as a distinct society;
- Guarantee of increased powers in matters of immigration;
- Limitation of the federal spending power;
- Recognition of a right of *veto;*
- Québec's participation in appointing judges to the Supreme Court of Canada.

As far as we are concerned, recognition of Québec's specificity is a pre-requisite to any talks likely to persuade Québec to support the *Constitution Act of 1982.* Québec's identity is the culmination of a slow social and political evolution. At the time of the conquest of 1760, a unique francophone community existed with its own customs, mentality, lifestyle and civil, religious and military institutions. These were the true Canadians whereas the conquerors were Englishmen. The Québec Act of 1774 and the Constitution Act of 1791, which created Lower Canada, confirm the French Canadian's unique character by giving them their first legal bases of existence and expression by permitting them to conserve their civil law and their religion and by establishing a parliamentary system. Then came the Act of Union of 1840, which followed the Durham Report drafted after the unrest of 1837-1838. In guise of retaliation, this Act united Upper and Lower Canada into a single political entity. This was the birth of the two designations, "French Canadians" and "English Canadians", that the British North America Act sanctioned in 1867 both in letter and in spirit.

More than a century would go by before a national Québec character emerged from this French Canadian people. During the one hundred years of federation, Quebecers would increasingly become aware of their identity in terms of their provincial government and in terms of a common good which was increasingly identified with their society.

This identity must not in any way be jeopardized. We must therefore be assured that the Canadian Constitution will explicitly recognize the unique character of Québec society and guarantee us the means necessary to ensure its full development within the framework of Canadian federalism.

Recognition of the unique nature of Québec gives rise to the need for obtaining real guarantees for our cultural safety. This safety is translated notably by the sole power to plan our immigration, in order to maintain our francophone character by countering or even reversing demographic trends that forecast a decrease in Québec's relative size within Canada.

Cultural safety and security also signifies the possibility of Québec acting alone in its fields of jurisdiction without interference from the federal government through its spending power. You are no doubt aware that this power allows Ottawa to spend sums of money in any area it wishes whether it falls under federal jurisdiction or not. This situation has become intolerable. For all provinces it has become a type of "sword of Damocles" hanging menacingly over all planned policies of social, cultural or economic development. Bill C-96 dealing with the financing of health and post-secondary education, which is before the Canadian Parliament, is a good example of this situation. This bill is clearly unjust and discriminatory as far as Québec is concerned. It represents a lack of earning totalling $82 000 000 in 1986-1987. It would be desirable for the Federal Government to remove itself from the areas which are not within its jurisdiction. However, it would be unacceptable for the Federal Government not to consequently give these financial resources to the provinces. It appears increasingly necessary to subject the exercise of the spending power to the provinces' approval. Doing so would contribute greatly to improving the functioning of the present federal system.

Should Bill C-96 be passed by the Canadian Parliament, the result would certainly have a severe impact on the progress of constitutional talks.

Spending power related to the principle of equalization is much more acceptable. However, once again, the current situation is completely unfair to Québec. My colleague, the minister of Finance, Mr. Gerard D. Levesque, was right in denouncing Ottawa's attitude in his recent budget. Ottawa unilaterally changed the rules for applying equalization. It is unacceptable for Ottawa to have acted unilaterally to change the rules for the application of the principle of equalization, which is entrenched in section 36 of the *Constitution Act of 1982*. The general parameters for applying this principle, which is fundamental to our federal system, must be written into the Constitution. In this way, modifying these parameters would mean resorting to the amending formula. This provides a further reason for demanding revision of the amending formula hereby protecting Québec from any changes likely to affect its rights.

The current amending formula is unacceptable to Québec because it does not make provision for financial compensation in case of withdrawal, and because it permits changing federal institutions or accepting a new province into the federation despite Québec's objection. We therefore demand a right of *veto* able to protect us adequately against any constitutional amendment which goes against Québec's interests.

The Constitution is not always changed formally using the amending formula. The Supreme Court of Canada, the Highest Court in the land, can, for all intents and purposes, impose constitutional amendments upon us through its interpretation of the Constitution.

The role of our Supreme Court is also significant for the respect of certain values that are essential to Québec's specificity such as: civil law and, from certain points of view, fundamental rights and freedoms. We must therefore be entitled to participate in the process of selecting and appointing the Supreme Court judges.

We also wish to point out a very important question left hanging since the proclamation of the *Constitution Act of 1982*, namely, since sections 41 and 42 refer to the Supreme Court, is the latter, by this very fact, constitutionalized?

The question is important since, if the answer is positive, the composition of the Supreme Court is constitutionalized and unanimity is required to change it. In this way, Québec sees itself ensuring the fact that 3 Supreme Court judges must come from the Québec Bar or magistrature. We consider this the required minimum. However, if the answer is negative, this guarantee no longer exists and the Federal Government remains the sole master of our Supreme Court in general. This is clearly unacceptable in a federation like ours, given the essential role played by the Supreme Court in its very evolution.

In short, our stipulations for supporting the *Constitution Act of 1982* are based on three main objectives: making the Act acceptable to Québec, improving it to the benefit of the entire Canadian federation and improving the situation of francophones living outside the province of Québec.

This last point is especially important to us. In fact, the situation of francophones outside of Québec will be one of our major concerns during the upcoming constitutional talks. Their situation could be greatly improved, for example, by specifying in paragraph 3B of section 23 that the expression "minority-language educational facilities" includes the right to management. There has already been a ruling to this effect by the Ontario Court of Appeal. However, the case, which was a reference for an opinion by the Ontario Government, did not go to the Supreme Court.

Why not take advantage of these constitutional talks to clarify this point which is so important for the survival of francophones outside Québec? It would perhaps also be timely to question the well-known concept of "where numbers warrant." Is limiting the right to instruction in its mother tongue for one of the two national minorities always appropriate? We want to discuss these issues and many others with the Federal Government and the other provinces in an attempt to improve the situation of francophones outside Québec.

Furthermore, these improvements to section 23 could only benefit Québec's anglophone minority. Clearly, the problems encountered by francophones outside Québec and anglophones within Québec are not identical. However, we wish to ensure Québec's anglophones of their language rights. These rights must naturally fall within the context of Québec society's francophone character and the government's firm desire to ensure its full development.

Québec's future is within Canada. This is the heartfelt conviction of the huge majority of Quebecers just as it is the prime, fundamental commitment of this government. We believe in Canadian federalism because, within the federal system, Québec can be faithful to its history and its unique identity while enjoying favorable conditions for its full economic, social and cultural development.

Stating our full, complete belonging to Québec and to Canada involves stating as significantly as possible our keen regret and feeling of helplessness about what occurred at the time of the patriation of the Constitution.

As Quebecers and as Canadians, we cannot accept the fact that important amendments to our country's Constitution were made without us and, in some respects, contrary to Québec's historic rights. This is why Québec's new government and the population of Québec, in the interests of Québec and Canada, would like matters to be corrected. Mention has been made of signing "with honor." Certainly, since what we are asking for is the respect of the dignity and pride of the people of Québec and respect of the province's historic rights. "With enthusiasm"—this too is possible if Québec is once again made the major partner in the Canadian federation that it had always been.

The election of a Liberal government in Québec last December signifies a new era for federal-provincial and interprovincial relations. Faithful to our federalist commitment, we want to guarantee Québec its rights as a distinct society and major partner in the Canadian federation.

Québec nationalism is not dead, far from it. It is thriving more than ever but in a different form. It is no longer synonymous with "isolationism" or "xenophobia" but rather with "excellence." More than ever, we, Quebecers, we, French Canadians, must recall our history and remember that we owe our survival to the dangers that aroused the sense of daring and excellence in our ancestors.

Our existence as a people and our belonging to the Canadian federation is a challenge to history. Faithful to our history and confident in our future, Québec intends to devote its efforts to continuing to meet this challenge and, within Canada, make Québec a modern, just and dynamic society. We must remember that our present is a token of our future.

Source: Text of the speech.

Speech by Robert Bourassa, Prime Minister of Québec, upon the tabling of the motion proposing that the Québec National Assembly authorize the amendment of the Canadian Constitution in compliance with the Meech Lake Accord, June 18, 1987.

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[Translation]

Mr. Speaker, as a departure from my usual habits of which you are well aware, this time I will refer to my written notes owing to interpretations that could be made before the courts. In following the process of law, a member's statements and intentions may be quite useful. Hence, I will attempt to be as precise and succinct as possible and I must abstain from making humorous remarks at the expense of the Head of the Official Opposition.

[...]

Mr. Speaker, first I want to mention and briefly review the reasons, without going into details, since the Government Leader earlier gave all the reasons that could justify proceeding immediately with much eloquence and conviction. As he said, Québec assumed leadership in this operation. Our proposals were discussed at length at the inter-governmental level. The Member from Jean Talon as Minister in charge travelled to all the provinces on several occasions to discuss this issue. He did an exceptional job. There was the meeting in August 1986 where the first ministers unanimously accepted to give priority to the constitutional issue. There also was a confirmation of this decision in November 1986 at a meeting held in Vancouver and the two constitutional conferences, on April 30th and June 3rd. Thereafter, there were 55 hours of Parliamentary Commission, and finally today, the government complies with the Accord and respects its engagement. We are assuming our responsibilities and we will not let go of an agreement that is fundamentally good, now and for future generations, for the people of Québec. We will not let this historic opportunity slip past us for taking a step forward, an important step for future, all the more so, as I said this morning during the question period, that there are other matters that must retain our attention during the coming weeks and months.

Likewise, there is obviously this engagement in the political agreement that was attached to the constitutional accord and that calls upon the various governments to act as soon as possible. Since we have held this 55-hour Parliamentary Commission, we can now proceed with the adoption.

Mr. Speaker, there can be no doubt that Québec is an undisputed winner in this 1987 constitutional operation. The winnings are substantial. The constitution will recognize for the first time in 120 years of history that Québec is a distinct society. The constitution will finally offer a place for Québec and it is a place of honour: Section 2 of the Act of 1867. The constitution will ensure for Québec the means for preserving and promoting its distinct character and will provide a constitutional basis for the realities of French life in Québec. The constitution will ensure for Québec the security it requires for its development within the federation. As such, I wish to enumerate the powers we have obtained:

increased powers over immigration;

powers in matters of appointing judges to the Supreme Court;

increased powers regarding the reform of federal institutions;

increased powers over the exercising of the federal spending power and guarantees regarding the eventual exercising of two rights for opting out, the first in the amendment formula and the second in the federal spending power.

If we seek to be more precise, Mr. Speaker, we must first note that with the distinct society, we're making a major stride forward that is not just symbolic, because this country's Constitution will henceforth be interpreted in conformity with this recognition.

The French language is one of the basic characteristics of this specific reality, but it is a reality that includes other aspects such as culture and political, economic and legal institutions. As we have said many times before, we have not wanted to precisely define in order to avoid reducing the National Assembly's role in promoting such specificity. It must be observed that Québec's specificity will be protected and promoted by the National Assembly and the government, whereas duality will be preserved by the legislators.

It must be emphasized that the entire Constitution, including the Charter, will be interpreted and applied in light of this section on the distinct society. The exercising of legislative jurisdictions is addressed and that will allow us to consolidate acquisitions and gain further ground.

Under Section 2 concerning the specificity of Québec, we have obtained sure and solid constitutional means for consolidating our powers over linguistic matters. Thanks to the drafting of the section, especially the protection clause, the powers of the National Assembly are maintained and protected. There will no longer be any erosion of our linguistic jurisdiction. Backslipping will no longer be possible; this provides absolute protection, as I have previously stated on many occasions before the National Assembly. The only path that we are pursuing is that of reinforcing and consolidating the French language.

The only limits to our jurisdiction may be found under sections 23 of the Charter and 133 of the 1867 Act. The right to resort to section 33 of the Canadian Charter, whenever necessary, is integrally maintained. In all and this is extremely important, Mr. Speaker, we have for the first time in 120 years of federalism, provided the constitutional basis for the preservation and promotion of the French character of Québec.

As regards immigration, which is obviously an increasingly important power for Québec—considering the demographic circumstances of which we are aware—we must preserve a fragile demographic equilibrium. First of all, Québec's determination to control its immigration is recognized everywhere. At home, Quebecers want to ensure demographic equilibrium and maintain its French character. Outside Québec, they want to safeguard their stake in the population of Canada, a critical factor of their relative weight within the Canadian federation. As a minority community in Canada and North America, Québec society is different from that which surrounds it and tools for controlling immigration are essential. We must ensure that the growing arrival of new Quebecers consolidates instead of weakening the numerical importance of Québec society.

Powers to act in this area are determining. Québec obtains the guarantee that it may—if it so desires—annually receive within the total number of immigrants to Canada, a number of immigrants corresponding to its demographic weight, plus 5%.

Québec obtains the power to select those immigrants who wish to come here. This power is to be exercised obviously within the general rules of eligibility and immigration policies of Canada with regard to the reunification of families. Québec alone will be responsible for the adaptation and integration of immigrants.

As regards the Supreme Court, Québec as a distinct society wants to ensure that it is adequately represented in the Supreme Court, the ultimate arbitrator of the Constitution. The constitutional status of the Supreme Court has been preserved. It is therefore seen as being above a single level of government. That is not all. Owing to the duality of the two systems of law in Canada, Québec has demanded to be adequately represented in the Court by a guarantee of three judges and by Québec's contribution to the selection and appointment of the judges.

In the June 3rd Accord, Québec obtained this guarantee of three judges and it obtained that from now on, Ottawa must choose them from a list of candidates suggested by the government of Québec.

As regards the federal spending power, its exercise, the best framework that was obtained is this guarantee of flexibility and respect for provincial jurisdictions. The exercising of the federal spending power has been, especially over the last 30 years, an area of constant friction between the federal government and the provinces. Québec has always vigorously denounced the unilateral exercising of this spending power which has proven to be the equivalent of genuine de facto constitutional amendments made to the sharing of legislative jurisdictions.

The June 3rd Constitutional Accord is a significant step in the evolution of relations between the federal government and provincial governments, since this profoundly changes the dynamics experienced to date. The introduction of a guaranteed right to opt out along with appropriate financial compensation for provinces that do not want to participate in a new shared-cost program constitutes a major step forward. This right of opting out does not mean the end of national programs. It does mean, however, that these programs will be designed within a context more respectful of provinces and that Québec will enjoy requisite flexibility for implementing the means and programs, which while remaining compatible with national objectives will reflect its own needs to a greater extent.

The defining of these national objectives will necessarily be made in cooperation with the provinces, and we are given the assurance that the exercising of the definition of these objectives will be performed within the ordinary framework of intergovernmental relations in Canada, i.e. finally within the framework of ordinary political negotiations.

We have taken special care to ensure that the recognition of a right to opt out for Québec does not entail the legal recognition of federal power to implement programs in provincial jurisdictions. As such, the new Section 106a is drafted in such a manner as to refer only to the right of opting out without recognizing or defining the federal spending power. To be doubly sure, we have insisted that that a reservation or protection clause be added and that it be specified that the legislative powers of the federal Parliament not be increased. Hence, Québec maintains the faculty to challenge before the courts any use of the federal spending power that would be unconstitutional.

Finally, Mr. Speaker, there is this recognition of a right of veto, the capacity to say no to a change that would go against the interests of Québec. Any constitutional gain would have little meaning if the Constitution could once more be changed without Québec's agreement. We have obtained —pardon the expression—double-bolted security. Québec will be entitled to reasonable compensation in all events where it dissociates itself from a change involving the transfer of provincial jurisdiction to the federal Parliament.

Québec has obtained a full right of *veto* upon all changes involving the following subjects: the representation of provinces in the House of Commons, Senate reform, certain attributes of the Supreme Court, the extension of existing provinces into the territories or the establishment of new provinces.

Hence, Mr. Speaker, here are the advantage—briefly but succinctly—that we have obtained. During the Parliamentary Commission, the right to the self-determination of Québec was deliberated. Questions were raised as to what would become of Québec's right to self-determination. My answer in the Parliamentary Commission to the Head of the Official Opposition was that the Liberal Party had recognized this right and continued to recognize this right. Furthermore, there is to be found in this free and voluntary expression of Québec's participation in the Constitutional Act of 1982, a specific expression of the right of the people of Québec to dispose of their own destiny, as we so did more explicitly in 1980 by choosing the Canadian option.

In this respect as in all other aspects of the Meech Lake Accord, there is no backsliding for Québec, no renunciation, no decrease in Québec's rights and prerogatives.

I would like to quote, Mr. Speaker, the resolution that was adopted by the Liberal Party, which remains in force and which forms a part of the constitutional program of the Liberal Party. It was adopted at the Montreal policy conference held on February 29th, March 1st and 2nd 1980 and at the General Council in St-Hyacinthe held on July 5th and 6th 1980 when the Minister of Education was the Head of the Liberal Party. In this resolution, it is said that the Liberal Party recognizes Québec's right to determine its internal constitution and to freely express its determination to maintain the Canadian federal union or to put an end to it. It succinctly recognizes the right of the people of Québec to dispose of its future freely. This is a resolution that was adopted by the Liberal Party in 1980 and that has not been modified in any way—it still forms a part of the program—or affected by the adoption of the Meech Lake Accord.

Here then is a step forward that will be accomplished with the adoption of this resolution. For 200 years now, since the beginning of its history, Québec has had to struggle continuously. Significant progress has been accomplished by our society, by our people, especially since the beginning of the Quiet Revolution and, above all, over the past decades in the economic sector. With the adoption of this resolution, we will enjoy greater political stability. True patriotism is that which is expressed by this will to struggle and progress collectively and individually.

The Meech Lake Accord, Mr. Speaker, is for us one of the most beautiful and strongest demonstrations of enlightened patriotism that we have had in this National Assembly since the beginning of its history. I am proud and convinced that my pride is shared by the great majority of all our fellow citizens. Thank you.

Source: Québec National Assembly, *Journal des débats*, June 18, 1987, p. 8707-8710.

***Reconciliation: A Québec View.* Speech by Claude Ryan, Minister of Education, Minister of Higher Education and Science, Minister responsible for the administration of the French Language Charter, given at a seminar on language rights and policies, Kingston, December 8, 1989 (extract).**

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[...]

To fully understand the meaning of Meech Lake in the eyes of Québec, we must remember the significant work accomplished in Canada over a quarter century on the linguistic and constitutional front. Since the Quiet Revolution of the sixties, Québec has never ceased to assert its conviction that important changes must be made to the Canadian constitutional order. Two federal commissions, the Laurendeau-Dunton Commission in 1967 and the Pépin-Robarts Commission in 1979 studied these questions. By different paths, both arrived at converging conclusions. They both concluded that the answer to the uneasiness surrounding Québec-Canada relations should be sought at two levels, that of linguistic rights and that of equality between our two leading communities (or societies).

The well-known Dunton-Laurendeau Commission report summarized in these words the purely political aspect of the problem of equality: "We have in mind the power of decision of each group and its freedom to act not only in its cultural aspect but in all aspects of its collective life [...] We are concerned with the degree of control each of the two communities has over its government or governments." Applying this reflection to the case of Québec, the report goes on as follows: "Québec is the only province where francophones form a majority and the anglophones a minority. Here, the weight of numbers favors francophones and it is a powerful lever [...] The problem can be succinctly formulated as follows: How can we integrate the new Québec in present-day Canada without curbing Québec's forward drive and without risking the breaking up of the country?"

Whilst using different terms, the Pépin-Robarts Report reached the same conclusion twelve years later. "We firmly express our conviction, said the authors of the Report: Québec is different and should be vested with the necessary powers to ensure the preservation and development of its distinct character within a viable Canada. Any political solution that would not satisfy these expectations would lead to a dismemberment of Canada."

Under Mr. Trudeau, the federal government implemented the recommendations of the Commission Laurendeau-Dunton on linguistic rights. However it totally ignored the conclusions reached by the Commission on the political dimension of the problem. As for the Pépin-Robarts Report, the federal government did not act on it and it was soon forgotten.

On the constitutional level the first major step since the publication of these reports was the adoption of the Constitution Act of 1982. Although it had some unquestioned qualities, the 1982 Act was adopted and implemented without Québec's approval. Today, Québec is judged in a severe, even cavalier manner as though it was chiefly responsible for the present confusion and uncertainty. It takes a great deal of unawareness, ignorance and arrogance to treat and judge Québec as though it was the aggressor. In reality it was the victim of an operation that for the first time since the beginning of the Confederation brutally excluded it from a major constitutional reform.

In light of our recent past, the Meech Lake Accord represents a welcome breakthrough under three different aspects. First of all, the Accord deals for the first time with the political dimension of the problem. Secondly, the Accord, as its name reveals, is the expression of a written agreement reached between and signed by the heads of all legitimate governments of Canada, including Québec. Finally, the Accord, although not complete and not perfect, brings some improvement in the areas of language and of sharing of powers, improvements that are significant for Québec and at the same time compatible with the proper functioning of the Canadian federation.

On the linguistic front, the Meech Lake Accord above all, retained attention because of the recognition we find therein of the distinct character of Québec society. It is important to underline that this recognition takes the form of an interpretive rule whose true meaning will reveal itself with decisions to be made in the future by the courts. By virtue of a clause in the Accord, Québec is recognized as having the responsibility of protecting and promoting its distinct character. However, Québec equally accepts to be tied to another clause of the Accord which obliges the federal government and the provinces to protect the fundamental characteristic of Canada consisting in the existence in this country of French-Speaking citizens concentrated in Québec but also present in the rest of the country and of English-Speaking Canadians concentrated in the rest of the country but also present in Québec. I do not see in what respect these clauses of the Accord may constitute a danger to the integrity of the country. They were almost literally reproduced from the recommendations already made by the Pepin-Robarts Commission in 1979.

With respect of the division of powers, the Meech Lake Accord represents important gains for the provinces. It defines, in this regard, a significant re-adjustment whose main elements, from the viewpoint of a Quebecer, strike me as being the following:

a) the article which enlarges the right of *veto* of the provinces to amendment touching notably the proportional representation of the provinces in the federal parliament, the powers of the Senate and nominations to this body, the nominations to the Supreme Court, the creation of new provinces and the extension of existing provinces all respond to requests frequently expressed by Québec. These clauses will permit, if they are ratified, the prevention of the deplorable repetition of constitutional experiences such as the one of 1982;

b) the article guaranteeing the right of a province to withdraw in return for fair financial compensation in the case of any amendment implying a transfer of powers represents a significant enlargement in comparison to the clause which we find in the Constitutional Act of 1982. This enlargement responds to a desire frequently expressed by Québec;

c) the articles relative to the nomination of members of the Senate and the Supreme Court create a new dynamic by implicating both the provinces and the federal authority in the nomination process. Despite the risks of an impasse that they carry, these clauses are susceptible to contribute to the quality and representativity of the nominations;

d) the section relative to immigration permits to recognize the particular situation of Québec in matters of immigration. It provides the necessary constitutional means so that this situation is taken into account in Canadian immigration policies;

e) the section relative to the federal spending power provides interesting precisions for both Québec and the rest of Canada. Without rendering judgment on the power to spend to institute programs in fields of provincial competence exercised at times by the federal government —the Accord recognizes the right of a province to withdraw, matched with financial compensation in regards to these programs on the condition that this province can offer a program compatible with national objectives. The coming onto scene of this concept of national objectives is another major innovation of the Meech Lake Accord.

Because the Meech Lake Accord represented the first valid response of the rest of Canada to the aspirations it has formulated for more than a quarter century and which came to confirm and reinforce two federal commissions of inquiry, Québec adhered quickly, without equivocation and without tergiversation, to this agreement, taking for granted that the other governments and their respective populations would do the same. After all the frustrations experienced over twenty-five years, after all the starts-ups we have witnessed, it would be profoundly deplorable that English Canada now seek to unilaterally and without valid reason renege upon the solemn commitment made by the federal government and all the provincial governments.

In light of what has been said and of certain recent developments, I wish to advance, in closing, some observations regarding possible paths of reconciliation between Québec and the rest of the country.

Firstly, it appears to me important to bear in mind that linguistic policy, as to its origin and application, stems from very different conceptions between Ottawa and Québec. Québec faces this matter in a very particular historic, geographic and economic context which justifies an approach inspired by the principle of territoriality. The rest of the country, and in particular the federal parliament, are more inclined to adopt an approach which puts the emphasis on the equality of individuals, be they francophone or anglophone. Rather than opposing here two approaches and seeking to eliminate the effects of one by reference to criteria borrowed from the other, it would be more productive and more just to try to understand each approach. Québec, for its part, seeks to conserve its complete responsibility in matters of linguistic arrangements in its territory. The role of the courts within this perspective should be approached with prudence. Linguistic rights are rarely absolute rights. As the Supreme Court has already indicated, they are more often than not, the fruit of political and historical compromises. From this, we note the large differences that exist in this matter from one country to another and from one society to another. To seek to settle our linguistic policy debates by invoking fundamental liberties conceived to be applied mainly for other matters, is to risk engaging the country along an unrealistic path.

Québec is aware, on the other hand, of the negative effect which its policies regarding commercial signs and admissibility to English schools have had on public opinion in English Canada. On commercial signs, we do not share the opinion according to which the decisions taken by the National Assembly of Québec are a negation of fundamental individual liberties; rather, we believe that these decisions are related to public order and stem from the policy which seeks to publicly express the French character of Québec. Regarding admissibility to English schools, the experience of thirty years, from 1945 to 1975, had clearly demonstrated that in the absence of a precise legal framework, immigrants, by more than 80%, opted for English language schools, even when their mother tongue was neither French nor English. This tendency resulted from the very strong attraction of English in North America.

Beyond these controversial cases, Québec scrupulously respects individual rights which are truly fundamental; it does so in light of a Charter of Human Rights and Freedoms which it gave itself in 1975 and which overrides all other laws adopted since that date. Québec equally accords to its minority a treatment, which in a very general manner, compares more than advantageously with what we may observe elsewhere in Canada. However that may be, misunderstandings have occurred, to which we must pay close attention. Québec will remain disposed to examine with respect representations of which it may be apprised in this matter. It loyally seeks any improvement susceptible to creating a more serene climate in regards to relations between anglophones and francophones without at the same time compromising the fundamental objectives of its policy.

Thirdly, it appears to me as important that we continue in federal institutions, to practice a policy inspired by the principles which over the past twenty years have marked interventions by Ottawa in this domain. Even though the idea of a perfectly symmetrical bilingualism at the level of the provinces and regions would be unrealistic, this ideal remains worthy of our common adherence at the level of federal institutions. The ideal of federal bilingualism is defined, in part, in the Constitution itself and in part in the federal official Languages Act. Excepting the provisions in this latter law which could serve as a pretext for federal interventions contrary to the fundamental orientations of Québec's linguistic policy, the objectives defined in Bill C-72 appear to me as just and worthy of being pursued.

Fourthly, we are, in regards to Meech Lake, proceeding towards a crossroads whose consequences are likely to be very serious for the future of the country. It is essential that English Canada respects the word given through the signature of its political leaders. This is all the more essential that after having had the representations of the legislatures which have yet to ratify the Accord, we are forced to conclude, just as the Attorney General of Ontario, Mr. Ian Scott recently did, that note of the arguments put forward to contest the Meech Lake Accord resists a serious critique. The consequences of a refusal of the Meech Lake Accord, would, in my view, be disastrous for the unity and cohesion of the country. In Québec such a refusal would surely engender a reaction of heightened disaffection towards the federal Canadian project. We have however nothing to waste in this regard.

Finally, I believe, for the advancement of the debate, in the very large usefulness of exchanges which bring together university people, men and women politicians, journalists and commentators, communication specialists and leaders of business enterprises and labour associations. These exchanges may appear to be non-productive to those who judge them with narrow emphasis upon immediate results. However, they permit a sifting of opinions which advances the debate by obliging each participant to clarify his ideas by confronting them with those of others. A Conference like this one favours exchanges which are free, more spontaneous, more unbiased than those that take place between governments. The detachment which characterizes a meeting such as this is in a certain sense a weakness, since its immediate chances of influence on government decisions remain limited. However, in the long run, it is often as a result of such meetings that new ideas take form and are subsequently translated into government choices. I hope that the exchanges of this Conference will help us to perceive in a spirit of greater openness the real meaning of the problems to which we have the formidable responsibility of providing answers which will permit this country to survive and to reinforce itself in full respect of its undeniable diversity.

Source: Text of the speech, p. 11-21.

Speech by Robert Bourassa, Prime Minister of Québec, delivered at the Québec National Assembly upon the rejection of the Meech Lake Accord, June 22, 1990.

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[Translation]

Please allow me at this time to dwell a few moments on the excellent work that has been accomplished during this first part of the session this year, which has involved several very important legislative pieces for all Quebecers.

Politically speaking, however, we must note that upon the adjournment of this first part, the Meech Lake Accord has not been ratified. Hence, the Québec resolution that was adopted three years ago less one day, no longer has any legal existence. On behalf of all Quebecers, I want to express my deepest disappointment, a disappointment issuing from all the efforts that have been made by various administrations over the past ten years.

Ten years ago, following the referendum on May 20, 1980, the government of Québec, then headed by Mr. Lévesque, made several efforts to reintegrate Québec into the Canadian Constitution. He had demonstrated, if I refer to an expression used by the Head of the Opposition this afternoon, great flexibility, but with an obviously disappointing result, since Québec had been excluded from the Canadian Constitution.

In 1985, we proposed to English Canada conditions that were deemed by all to be moderate and reasonable. On three occasions, we agreed on all these conditions. In this respect, Mr. President, I want to thank all my colleagues who stood up for Québec. And I wish once more to point out the particular work that was done by the Premier of Ontario, Mr. Peterson.

Last June 9th, we once again signed an agreement. All the first ministers agreed to do everything possible to have the resolution adopted before June 23rd. It is noteworthy that two provinces did not do so and do not intend on doing so.

In 1987, an agreement was reached. Following three changes in government, the signature that has been given by the provinces was not respected. This time again, in 1990, two provinces that had agreed to do everything possible to have the resolution adopted did not respect their commitment. Up until 1985, it was said: *"What does Québec want?"* We clearly expressed what it is that Québec wants. And the entire government team, and I wish to pay tribute to the Minister in charge, the member from Jean-Talon, who performed an extraordinary task in handling this affair with his entire team, everyone in the team...

Hence, since 1985, the question is: *"What does Canada want?"* And we are still waiting for Canada's answer in this respect.

Mr. President, English Canada must clearly understand that, regardless of what is said or done, Québec is today and always will be a society that is distinct, free and able to assume its destiny and development.

Source: Québec National Assembly, *Journal des débats*, June 22, 1990, p. 4134.

Message to the people by Robert Bourassa, Prime Minister of Québec, following the failure of the Meech Lake Accord, June 23, 1990.

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[Translation]

My dear fellow citizens, we now stand at a crucial moment in our history. The decision to reject the Meech Lake Accord stirs new doubts regarding our political future. Why is this so? For the next few moments, it is worthwhile to review the events of this past decade. We all recall that on May 20, 1980, Quebecers voted to have Québec remain within the Canadian federation. This referendum came after 20 years of significant progress. We also recall that 30 years ago yesterday, Québec's Quiet Revolution began which allowed its assertion socially, culturally and economically. After the referendum, the administration that preceded ours, as I mentioned yesterday, made important efforts to assure Québec's place within the Constitution. Finally in 1985, to make it possible to settle the constitutional issue at least regarding the part for reintegrating Québec, we laid down five conditions, no more no less, without any reservations for making deals. As the Opposition Leader so correctly stated, the government of Québec and its First Minister were in the position of taking a risk with history. They took the risk, as I said a few months back, of being accused of lack of concern regarding the reintegration of Québec in Canada. We took this risk because we believed that was essential that Québec regain its political stability.

I wish to take this opportunity to thank Mr. Parizeau for his support yesterday evening. Québec is always stronger when it is united.

This determination to find our place within the Canadian family was therefore performed with moderation. If we were moderate, it was because we wanted to succeed, but at the same time this moderation was to be a test of English Canada's willingness to understand Québec. As such, for three years we exercised patience and openness. In June 1987, the agreement was ratified for the first time. It had been ratified previously on the basis of principles in April 1987. Two weeks ago, once again, it was accepted. We even agreed upon a second round of negotiations, to the preparation of a second round of negotiations. Throughout all this, it must not be forgotten that in August 1986, all the first ministers were in agreement to give priority to the issue of Québec.

Two weeks later, two premiers were unable to respect their signature. Premier Filmon, because of the question we all know, -the obstruction by one Member, and Premier Wells who decided not to respect his signature. I was surprised and very disappointed. Mr. Wells is considered to be a man of principles. But how could you conciliate his principles with the fact that he is refusing to respect his signature? He criticized strongly the Prime Minister for his actions during the Conference and after. But in not respecting his signature, he has no lessons to give on the grounds of principles to the Prime Minister.

In this respect, the Prime Minister of Canada was also accused of using all sorts of tactics to successfully reintegrate Québec. I witnessed the efforts of the Prime Minister of Canada for one full week, during the dozens and dozens of hours that he devoted to convincing all his colleagues to accept the Meech Lake Accord. He did not do as some of his predecessors had done, who successfully struck a constitutional agreement by keeping Quebec out of the deal. These are the same people who, yesterday, were criticizing the Prime Minister of Canada. Politics can sometimes be quite bizarre and in these circumstances, ungrateful for the Prime Minister of Canada.

As regards manipulations, it's curious that no one mentioned this probability or hypothesis in the case of Amerindians, no one, especially in English Canada. Yet it is a well-known fact that by a killing the Meech Lake Accord, we're only delaying the solution of the native peoples problem.

This leads me to express and make known to you the decisions of my administration following this failure. One outcome to be concluded from these negotiations is that the constitutional review process as it exists in Canada is discredited. The government of Québec does not accept to return to the negotiating table on constitutional matters. There is no question of discussing Senate reform, or discussing the Canada Clause, and unfortunately no question of also discussing constitutional reform that could involve the Amerindians.

How can you expect me to accept returning to the constitutional table wher I refused to do so in 1986 before the beginning of negotiations on the Meech Lake Accord? How could I return to the table now that the accords have been rejected, after having been ratified? In addition, the position of my government from now on is to negotiate bilaterally and not with eleven entities, to negotiate with the Canadian government that represents the entire population of Canada, bilateral negotiations between the government of Québec and the federal government.

Obviously, we will have negotiations with other provinces on a bilateral basis. It is also obvious that we may decide to participate in some conferences where Québec's interests are at stake, but never on constitutional matters. In the current context, I have decided not to participate in the conference to be held in Winnipeg during the month of August, which each year brings provincial first ministers together.

With the rejecting of the Meech Lake Accord, the Liberal Party of Québec's program was likewise rejected. We now need a new program and it is normal that we take the time to discuss this matter with Liberal Party militants, also to listen to representations that may be made by various popular groups, in forums that remain to be organized. Meanwhile, the government of Québec intends on activating certain administrative issues that are important for Québec. In particular, I am thinking of the immigration issue. We're very close to an agreement. We know how vital is for the future of Québec in immigration matters to be able to have additional powers allowing us to consolidate our security in communications and in issues regarding manpower training.

Dear friends, in conclusion I wish to say to you that in all these decisions and those to come, the superior interest of Québec will be the determining factor. And in this respect in all these decisions, we will take into account the economic dimension. On four occasions, Quebecers have elected me to be their Premier. One of the main reasons for this, and I say this humbly, is the priority that I've always given to reinforcing the Québec economy; that the strength of Québec, in my view, always begins with its economic force. And we have many advantages in this respect. It will therefore be necessary that in these important decisions for our future, that the economic dimension be primordial. It will also be necessary to take into account the dynamic energies of our cultural communities, of the historic and irreplaceable part played by the Anglophone community in Québec society, as well as the assistance that we may provide to French-Speaking Communities outside Québec.

In the preparation of its future, Québec has many very important advantages, and in this preparation that will be one of our main priorities over the coming months, we have these advantages connected to the exceptional quality of our labour force, connected to the dynamic force of our business people, the abundance of our natural resources and the exceptionally strategic position of Québec's geography in Canada and North America.

All in all, Québec is free to make its choices. But it must make its choice with realism, serenity and lucidity. As for myself, I wish to assure you that my only orientation will be the superior interest of the people of Québec. Thank you very much.

Source: Text of the message.

Speech by Gil Rémillard, Minister of Justice and Minister for Canadian Intergovernmental Affairs, at the Canadian Bar Association Meeting, Whistler, February 24, 1992.

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I am particularly pleased to be with you at your mid-winter meeting. It wasn't so very long ago, before I became involved in politics in October 1985, that I had the pleasure of participating in your meetings as a lawyer and law professor. I see friends here whom I am delighted to meet again.

I would have liked to participate in your various weekend workshops, but I was detained in Québec City at the Justice Summit. Like all the other Canadian provinces, Québec must thoroughly overhaul the administration of justice, to improve its quality and especially its accessibility. The summit, whose theme was "Justice, a Shared Responsibility," made it possible for us, in the four days of discussions, to lay the foundations for firm cooperation among all the main parties: judges, lawyers, notaries, workers, the business community, social groups and government. At the summit, we decided, in particular, to develop together a new approach towards justice based on prevention and alternatives to judicial procedures. Cooperation, mediation and arbitration are the key words in dealing with delays and in making justice truly accessible to all citizens, regardless of their financial situation, ethnic origin, language, religion or other distinctive characteristics.

I would like to speak longer on this subject, which is my main concern as minister of Justice. You are all eminent jurists and your comments would prove of great use to me. I would also like to discuss the reform of our Civil Code, which was assented to on December 18, after more than four months of study by a parliamentary committee. However, I know that, this morning, you are offering me this forum in my capacity as minister for Canadian Intergovernmental Affairs.

I was pleased to accept your invitation to speak on the constitutional issue because I know that the Canadian Bar has always defended the essential values of this country: freedom, democracy, pluralism and tolerance. Your December research report, "Rebuilding a Canadian Consensus," is fitting testimony to this, while your invitation reflects your legitimate concerns for the future of the country and your desire to understand the present situation, its origins and its meaning.

We are at this critical juncture because in 1982 the Canadian Constitution was patriated despite the opposition of the Québec National Assembly. This is the main explanation for our present constitutional problems. This constitutional "coup de force," unprecedented in the history of our country, is keeping one of the two founding peoples out of the Canadian family.

We tend to forget that the primary objective of the Meech Lake Accord was to redress the injustice done to Québec in 1982. By accepting Québec's five conditions —recognition of Québec as a distinct society, recovery of the *veto*, delimitation of federal spending powers, guarantees of constitutional power in immigration matters, constitutional recognition of three judges from Québec on the Supreme Court—, Canada redressed—five years later—the injustice of 1982 and undertook the comprehensive constitutional reform sought by all Canadian partners.

You have to realize that, with the exception of the recognition of Québec as a distinct society, each and every other provision of the Meech Lake Accord applied to all the provinces, which benefited from them. This was true of the provisions concerning immigration, broadening of the *veto*, delimitation of federal spending power, the process by which judges are appointed to the Supreme Court of Canada and the constitutionalization of the First Ministers' Conference. The Meech Lake Accord thus supplemented the Constitution Act, 1982 and made it acceptable to Québec.

Three times Quebecers saw the first ministers sign the agreement and extol its virtues. They simply do not understand how the 1982 hostile takeover could take place again over their opposition, when Quebecers represent 25 % of the Canadian population and are one of the founding peoples of the federation.

Quebecers will not accept an agreement that, in essence, would give them less than Meech. This is the first principle that will guide us as a government in examining any federal proposal. On the eve of the report of the Beaudoin-Dobbie Commission, it is undoubtedly worthwhile to recall the other principles that we feel are inescapable in the current debate.

Québec must, first of all, be recognized as a distinct society. We simply want a historic reality, upheld in constitutional texts since at least the Québec Act, 1774, to be used in court to interpret our Constitution. We do not want to be considered superior to the other provinces. We very simply want the distinct society clause to make it possible for the courts to interpret the Canadian Constitution according to our reality and our history. This clause produced the demagoguery and intolerance that defeated Meech Lake. However, for the past few months, we have had the impression that it is better understood and accepted by Canadians.

Another essential principle is the *veto*, which I prefer to call the right to consent to any constitutional amendment that may affect the rights and powers of the Québec National Assembly or alter the central institutions of the federation. Québec already has this right, as do all the other provinces, in regard to the distribution of powers. The Constitution Act, 1982 indeed provides for a right to opt out, but it carries with it financial compensation only with respect to transfers related to culture and education. The possibilities of such financial compensation should be broadened so as to include all cases of opting out, as provided for in the Meech Lake Accord.

As for the matters dealt with in section 42 of the Constitution Act, 1982 (central institutions, the Senate and the creation of provinces), Québec, as one of the major partners in the federation, is entitled to demand that it have a say in any amendment concerning those matters, since they are at the very heart of the federal compromise of 1867.

Like the other Canadian provinces, we want the Canadian federation to progress in step with the evolution of the country. It is obvious that we must, for example, **strengthen our economic union; this is another principle that will guide us in our evaluation of Canadian offers**. Québec's support for the Winnipeg Intergovernmental Agreement on government procurement contracts exceeding $ 25 000 in value is an important indication of what the provinces can accomplish when they work together.

Québec shares the objective of a stronger and more dynamic economic union. We favour the principle of mobility of goods, people, capital and labour. We advocate the elimination of obstacles to the mobility of the factors of production. We were not the only province to say that the federal proposals are disproportionate compared to the objectives that are to be pursued. The courts should not manage the economy or intervene in the drafting or implementation of economic policy. Nor should federal authorities be given unlimited powers that could destroy the powers of the provincial legislatures. We must find means that call for cooperation in developing the Canadian economic union.

Furthermore, do we need a new institution, the Council of the Federation, when we can easily get along with existing institutions? For example, the First Ministers' Conference on the economy, as was stipulated in the Meech Lake Accord, could be constitutionalized and supplemented by a permanent secretariat, which is already in place and is responsible for preparing federal-provincial conferences. We would thereby respect the principle of executive federalism, which is one of the main characteristics of our Canadian federation and which directly involves the provincial first ministers in the drafting of national policies, through federal-provincial conferences.

The search for greater effectiveness must also guide us in establishing a **new division of powers** that will clearly delineate the jurisdictions of the two levels of government. We should find in the new constitution a division of power establishing a more functional, more cooperative federalism that will reduce overlaps and guarantee that Québec and the other provinces have the means necessary to protect and promote their distinctive characteristics.

It will be recalled that the Pépin-Robarts Commission of 1979 recommended **asymmetrical federalism** as a means to accommodate not only Québec, but the other provinces as well. It is the essence of federalism to meet the different needs of the federal partners. There have always been asymmetrical elements in our constitution. To wit the provisions of the Constitution Act, 1867 concerning denominational schools (section 93), linguistic rights (section 133), property and civil rights (section 92), and the fact that, when they entered the federation, the four western provinces did not have jurisdiction over their natural resources, in contrast to the other provinces. Another illustration is the Constitution Act, 1982 and its amending formula, which enables a province to opt out of a constitutional amendment and thereby acquire a special status.

Asymmetry and federalism are compatible. Without overestimating its implications, we may view asymmetry as an important means of establishing a division of powers likely to satisfy both Québec and the other provinces, while consolidating the foundations of the federal government in regard to its national responsibilities.

We also feel that **the new distribution of powers must be constitutional in nature**. Simple administrative arrangements can be useful in certain areas of joint jurisdictions, but we know that such agreements are always at the mercy of federal legislation. They are not sufficient. We would do a disservice to all levels of government by favouring systematic recourse to administrative agreements.

Lastly, **the territorial integrity of provinces** must be respected. The territory of a province may not be changed without the province's consent. This principle is already entrenched in section 43 of the Constitution of 1982 and must be abided by in any constitutional agreement recognizing the right of the Aboriginal peoples to self-government. The Québec National Assembly has recognized the principle of Aboriginal self-government in the framework of agreements with governments.

In 1975, we concluded, with Aboriginal Nations, an agreement recognizing their ancestral rights, and we have demonstrated that it is possible to establish harmonious relations with them when exaggeration and demagoguery are cast aside. I am convinced that we are able to achieve as much in regard to the legitimate desire of the Aboriginal peoples for self-government. However, let it be clearly understood at the outset that self-government indeed signifies rights, but equally important obligations as well, and that it must be set up in the context of negotiated agreements, approved by the governments.

The option favoured by the Québec government is still profoundly renewed federalism. The day after the failure of Meech, Prime Minister Bourassa announced that his government would no longer participate in federal-provincial conferences and that Quebecers were the ones to decide their own future. In the wake of the recommendations of the Bélanger-Campeau Commission, the National Assembly adopted Bill 150, under which two parliamentary committees were created: one to examine offers that might be made by the federal government and the other provinces; the other to assess the impact of sovereignty. The work of these two committees is progressing according to a strict timetable, established by Bill 150, which provides for the holding of a referendum on sovereignty no later than October 26, 1992.

For the good of Québec and the good of Canada, this timetable must be complied with. The process followed until now by Ottawa has abided by this timetable. Offers must reach us early enough for the parliamentary committee of the National Assembly to examine them and carry out its mandate. The Liberal Party of Québec, which forms the government, will then hold a special congress during which members will evaluate the federal offers in light of the Allaire Report, which is the constitutional position of the party.

As a government, we believe it is our duty to do everything in our power to enable Quebecers to make an enlightened decision. The parliamentary committees are examining the two options carefully. Sovereignty appears to be legitimate and feasible. In the short term, it entails costs for Québec and, let's not forget, for the rest of Canada as well. It also appears from various testimonies that an economic association integrated into a political structure could result in harmonious, effective cooperation for the betterment of the two communities.

The deadline set forth by Bill 150 should not be considered a sword of Damocles hanging over the head of Canadians. Quebecers have given themselves this instrument to finally put a stop to constitutional uncertainties and build their future with serenity.

Bill 150 is no bluff.

I am confident. The constitutional conferences that concluded in this province last weekend were a profitable exercise in changing mentalities and attitudes. These conferences were unusual in that Canadians from all regions came to discuss the momentous questions at the heart of the constitutional debate, and to voice diverging points of view and possible basis for agreement.

Our determination to settle the constitutional question once and for all springs from the desire to protect our social and cultural values and the conviction that resolution of the matter is a sine qua non for strengthening our economy. Economic strength and stability will enable Québec and Canada to maintain and improve their competitive position at the turn of the century in a difficult and changing world in which everything, not only state borders, is questioned. Let us settle our constitutional problems and we will be able to work together to develop new social and economic models which will mirror our identity and values.

Federalism is built on principles which can enable us to attain our objectives. Only by the will of men and women of this county will we be able to transform those principles into reality.

Source: Text of the speech.

Message to the Nation by Jacques Parizeau, the Prime Minister of Québec, upon the issuing of the referendum briefs, Québec, October 1, 1995.

[Translation]

Ladies and gentleman of Québec:

Today, I signed the Order-in-council setting the date for the referendum. Next October 30th, each and every one of us will be called upon to perform one of the most important acts of our lives. It will mean saying who we want to be in our own eyes, in those of our children, and in those watching us from abroad.

A people's choice for sovereignty always represents a decisive moment. The decision to fully assume one's destiny. The decision for us to make our laws and adapt them to our values and our needs without requesting permission from others. The decision to collect our own taxes and spend them on our own priorities. The decision above all to no longer be a minority in our English-speaking neighbors' country, but a majority in our own country. The affirmation once and for all of our language and culture, that of a French-speaking people of the Americas. Basically, to finally be ourselves, simply ourselves.

As this century draws to a close, there is something absurd in our neighbor's refusal to recognize our existence as a people. In their refusal to treat us differently than as one province among others. In their refusal to even accept writing that we form a distinct society into their constitution. It is lamentable that the Prime Minister of Canada makes fun of us, as he did two weeks ago, when explaining that being distinct means speaking English with an accent.

Actually, two futures are at stake on October 30th: our collective future as a people and our future as individuals: the quality of our lives and that of our families. Our lives will be deeply affected over the coming years owing to federal indebtedness. The head of the NO Option, Mr. Daniel Johnson explained this quite clearly: the federal debt was created in $30 billion-per-year batches, essentially because in Ottawa people such as Jean Chrétien meddled in our business by over-extending credit and spending money that no one has.

Today, enough is enough. While Mr. Chrétien says in Ottawa: cuts must be made. This is inevitable and it's true but where to cut? We are faced with hard choices.

If we vote for the NO Option, we will be forcing on ourselves choices made by others. If we vote for the YES Option, we will also have to make a collective effort, that's obvious. But we will be able to plough our efforts into our own choices and priorities in answer to our own needs and values.

Jean Chrétien and the NO Option have indicated these past days what they have chosen: if the people vote NO, they will force their choice to cut the pensions of new retirees—so when will they thereafter cut the pensions of current retirees? They have chosen to reduce or eliminate employment insurance benefits for many citizens, especially women and young people. They have chosen to impose on Québec some of the heaviest budgetary cuts in our history. On the one hand, they're cutting into the financing of the health-care system, day care centers and higher learning, yet on the other, they are using our taxes to construct luxurious mega-projects such as Hibernia in Nova Scotia and a billion dollar bridge to Prince Edward Island.

Those are their choices. Choices where we Quebecers have nothing to say. This is decided in Ottawa, where we are increasingly a minority.

If on the other hand we vote YES, it then becomes possible for us to choose how our decisions will be managed. How we will share our collective effort. If the YES wins, we will have already made our choice: we have chosen to protect current and future retirement pensions at their current level. This is our choice. We have chosen to protect young people's access to Cegep and university. This is our choice. We also have chosen not to confiscate the benefits to which young people and women are entitled. We also have chosen to insure the continuity of programs for children, to simplify and improve family policy.

To make our choices, where will we find the money? First of all, if the YES carries the day, we will recover the $ 28 billion we send each year in tax money to Canada. We will also save nearly $3 billion currently wasted because of duplicates services at two levels of government. We will finally have the power to decide on our investments in research and development. Québec has never had its fair share of these expenditures, which create employment.

But that will probably not be enough. Other choices will have to be made. Will we decide to reduce fiscal favors made to corporate billionaires? Or decide on a taxation reform so that everyone pays his or her fair share? Possibly decide on insuring that taxes on profits of large corporations will not disappear into mysterious tax shelters? Maybe decide to enable each citizen, each business and the state to save hundreds of millions of dollars and millions of lost hours because in one fell swoop we will eliminate one-half of the red tape—since we will only have to fill out one income tax report?

If on October 30th the answer is YES, then all of this becomes possible.

But will interest rates go up? After a YES vote, will it cost more to buy a house or an automobile? Those for the NO Option are trying to make us swallow this one. I only have two very simple comments to make on this issue.

Two weeks ago, someone who specializes in these questions explained it clearly. The President of the Bank of Montreal's Mortgage Loan Corporation, Mr. Tom Alton, explained that there is no reason to believe that interest rates would rise after a YES vote. No reason whatsoever. Immediately the Bank's senior management issued a gag order forbidding him from repeating this statement up to referendum time. Why hide it?

As for the economic impact of a YES vote, as former Minister of Finance I agree with the evaluation made by former banker Michel Bélanger when he was chairman of the Bélanger-Campeau Commission. He said: "There will be some small bumps in the road, but nothing that would be especially different from other small bumps that occur in other administrations."

Why is this? Because Québec is the world's 16th richest economy. Our resources, savings and investments, plus our highly educated work force, business executives and companies are solidly entrenched. Nothing will change this.

Furthermore, with a YES vote, we believe that new energy will be unleashed, triggering a second Quiet Revolution.

For instance after a YES vote, it will be possible to take emergency steps to implement a national strategy for job creation. As a province, we do not have the right tools for doing this. But once a YES vote is made, we can then rely on our incredible capacity for joining forces: our business executives, labour forces, cooperatives, our cities and regions. It also then becomes possible to organize a genuine decentralization of powers and resources for employment purposes.

Many countries similar to ours in population size, yet whose economies are not as rich as ours, succeed in bringing unemployment down within a few years thanks to concerted efforts. If they can do it, why not us? If we vote YES, we'll be off to a start.

Another example: the situation of the French language is excellent in nearly all regions of Québec. But this is not the case in Montréal. Within 25 years, most Montrealers will no longer be French speakers. As a province, Québec has exhausted all the means at its disposal.

If the NO vote carries the day, we are resigned to watch—powerless—as the French language declines in our metropolis. If the YES vote passes, then it becomes possible for us to fully control our immigration policy. If it's a YES vote, our future immigrants will know that they are arriving in a country distinct owing to its French language and culture. This will make for a total difference in their attitude and ours.

It is a known fact that Québec was built and enriched by people from many different parts of the world. This is good and we want it to continue, while ensuring the security of our language.

The issue of language leads me to discuss with you a second critical factor in the October 30th vote. We have just seen how the YES vote may improve our lives, jobs, financial situations, language, plus how it may protect the social quality of life we have acquired, while triggering a second quiet Revolution.

But there is more to this. In essence we must decide if we will tell our neighbors and the world at large that we exist. If we vote NO on October 30th, the message we're sending to them is: you are correct in denying our existence, you are right in rejecting our claims. Because if we vote NO, we undermine our entire power of negotiation. The ability to stand our ground.

This is sad to say, but if we vote NO, we're putting our future into the hands of people who have devoted their careers to making Québec regress. In 1980 after the NO vote, Jean Chrétien made Québec take another step backwards. Back then, this came as a surprise to many people, including Mr. Johnson. This time there is a difference, we are forewarned.

From another corner, the Premier of Ontario has said that he intends not only to recognize Québec, but also to consider us on an equal footing with the United States. It has been a long time since we have heard flattering words such as these from English Canada. Just imagine dealing with Québec on an equal footing, with the same respect as shown to the United States of America. Why did he say this? Because in Ontario, hundreds of thousands of jobs depend on us Quebecers. We are one of their best customers. We have—as grocers like to say—immense "purchasing power." And as you are well aware, in the expression "purchasing power," the key word is "power."

What must be done to obtain this respect? Vote YES. Become sovereign. Then, all this becomes possible.

Important clients we are and no less major vendors. I have said this for at least the past 10 years: A Sovereign Québec will continue to do business as usual with its neighbors. It is up to us to keep the Canadian dollar. We do not have to ask for permission. Under new international trade agreements, we are protected from the possible bad temper of our neighbors. North American Free Trade—as Jean Chrétien has said—is an "irresistible" force. Quebecers, who are the most enthusiastic promoters—will always be a part of it. No one challenges this.

It was in fact interesting to hear the federal Minister of Finance acknowledge this week, "That obviously, Canada would sit down with Québec" as a sovereign entity for negotiations. It was interesting to hear Minister Robillard say that obviously, Canada would sign a trade agreement with Québec. We all agree, this is inevitable, not to be ignored and is quite sufficient for preserving our access to the Canadian economic space.

But as tenants of the YES vote seeking change, we will go even further. For the past year, Quebecers have expressed their desire to keep, if possible, a special relationship with Canada. They want the Québec of tomorrow to be one with an open hand and be a good neighbor. Last June 12th, Lucien Bouchard, Mario Dumont and myself expressed this will of the men and women of Québec in an agreement that we signed.

Following a YES vote, the National Assembly would be mandated to set Québec sovereignty into motion. But before doing so, and this is our commitment: Québec will pause to make a formal offer to Canada. An offer of economic and political partnership that will go beyond simply maintaining a common economic space. An offer that will say: Let's stop bickering over issues that divide us and start working together on subjects that unite us.

This means that following a YES vote, we will take whatever time to orderly negotiate in a flexible and open manner, while representing the interests of all Quebecers.

The text on the offer of partnership has been sent to each household in Québec by us. In this small brochure, you will find a clear and accurate explanation of what will happen following the YES vote. Please read it, discuss it, and should you have any questions, call the YES Committee in your locality.

The decision you will make within the secrecy of the voting booth on October 30th will belong to you alone. Each and every one of you have a duty to yourselves, to those who have preceded us and those who have defended and built Québec, a duty especially to the young people of Québec.

In 1980 with René Lévesque, we had a first opportunity to make this choice. Over the past 15 years many things have happened. The stakes are much clearer and a second chance is now upon us. Not everyone gets a second chance.

No one can foresee the future, it is possible, however, that October 30th will be our last gathering as a group. Afterwards, as a province melted in with the others, we will perhaps become individuals like everyone else. And in the end, it is possible the history will condone Jean Chrétien's comment that our only difference will be to speak English with an accent.

So you see, in five, ten or twenty years, we will be able to tell our children and our grandchildren "On October 30, 1995, when decision-making time arrived, I was there. I carefully thought out and took the right decision for our future."

Source: Government of Québec, Prime Minister's staff. Notes for the presentation.

Statement by Lucien Bouchard, Prime Minister of Québec, following the Meeting of the First Ministers in Calgary, Québec, September 16, 1997.

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[Translation]

Nearly two years ago, on October 30, 1995, more than nine Quebecers out of ten left their homes to participate in the greatest democratic exercise we have ever known, i.e. a referendum on Québec's future. Nearly one Quebecer out of two was sufficiently confident in the ability of our people, sufficiently discontented with Québec's place in Canada, and sufficiently opposed to the Canadian status quo, to vote in favour of Québec's sovereignty, accompanied by an offer of partnership.

Among those who voted No, many individuals also rejected the status quo and voted for the changes promised by federalist leaders. These No voters believed the declarations of love of hundreds of thousands of Canadians and their premiers.

Sovereignist voters and numerous federalists shared a strong desire for change. The common denominator can be summarized succinctly: all of these Quebecers wanted to exercise greater control over their affairs, i.e. to obtain more powers for Québec, and they hoped to obtain recognition of their status as a people.

Most of the No voters wanted *more* powers for Québec and recognition by Canada, while Yes voters wanted *all* powers and international recognition.

The day after the referendum, newspapers the world over noted that Canada had received a sharp warning and that it must quickly instigate major changes in order to satisfy Quebecers. Failure to do so, it was said in the world's capitals, would mean that Quebecers would ultimately opt for sovereignty.

Nearly two years later, no tangible change has occurred. Last Sunday, Saskatchewan Premier Roy Romanov, a veteran of these discussions, readily acknowledged the situation when he stated that Canada had nothing new to offer those Quebecers proposing sovereignty. "We have nothing," he said.

The English-Canadian premiers spent 11 hours together. They consulted the leaders of the opposition in their respective provinces and federal politicians. Each of the English-speaking premiers assembled in Calgary last Sunday was aware of the obstinate opposition of his voters to any proposal that would give Québec additional powers or special status. Each of the English-Canadian premiers knew that he would be going out on a limb if he proposed the recognition of the Québec people, that he would immediately lose the confidence of his voters.

Painfully, together, they produced a document that is the only possible response by Canada to the 1995 referendum vote. I do not doubt that my colleagues from Canada did their utmost to act and made the maximum possible use of their leeway. Consequently, the Calgary declaration represents the absolute maximum that Canada can offer Quebecers.

Now that Québec voters know what Canada is prepared to offer in response to the referendum vote, we must ask ourselves two questions.

First, does the offer contain more powers for Québec? Would Quebecers, to repeat the most popular slogan of our history, be "masters in [their] own house" to an even greater extent?

Absolutely not. To the contrary, were this offer to be implemented, we would be "masters in our own house" to a lesser extent that we are now. For the first time in a document of this kind, the premiers are inviting the federal government to encroach on what remains of our autonomy and to take charge of our social programs. For nearly 40 years, Jean Lesage, Daniel Johnson, Sr., Robert Bourassa, René Lévesque and Jacques Parizeau have demanded that the federal government allow us to manage our social programs according to our own priorities and in our own way, as stipulated in the 1867 Constitution, the original pact between the two founding peoples.

Since Sunday, the premiers of the English-speaking provinces have been proposing exactly the opposite.

That is all, with respect to Québec's powers. There is nothing else, only a major retreat. The Allaire Report, the program of the Québec Liberal Party, demanded 22 exclusive powers for Québec. Canada is offering nothing. Worse still, it is proposing to curtail Québec's power over family and health policy and everything that reflects Québec's social solidarity.

Former Québec Premier Robert Bourassa described the Meech Lake Accord as the most limited conditions that Québec had ever accepted, although the agreement did give Québec authority over immigration and the power to make appointments to the Supreme Court, among other things. Other powers were to be added subsequently during a second round of negotiations. Today, in the Calgary declaration, there is nothing.

In the Charlottetown Accord in 1992, the federalists at least pretended to grant Québec various powers. What Quebecers rejected as being too little, Canada still regards as being too much. Today, Canada is suggesting that we relinquish some of our remaining powers.

Now for the second question that arises. Does the document recognize the existence of the Québec people?

In my view, here we touch upon one of the saddest facets of the history of relations between Quebecers and Canadians. When observers wonder a few years from now why these two peoples were unable to continue to live under the same federal regime, the answer will be, above all, a lack of respect and recognition and the refusal of one of the two peoples to recognize the existence of the other.

Why is it so difficult for our Canadian neighbours to describe us in the same terms as they use to describe the other peoples of the world? The British government has just recognized the "proud historic nation" of Scotland. Quebecers have formally recognized the aboriginal nations living in Québec. We have always recognized the existence of the English-Canadian people.

There is a deep-seated refusal among our neighbours to return the courtesy. This refusal appears to harden with the passing of each year and each decade. The stronger the Québec people becomes, the more dynamic and economically solid, the less inclined our neighbours are to recognize us.

At the outset, Canada was said to have two founding peoples. During the 1960s, Canadian Prime Minister Lester Pearson retreated somewhat by asserting that Québec made up a nation, although inside the Canadian nation. In the 1970s, this observation was further diluted: Ottawa refused to speak of a people or a nation and Québec's presence was more subtly suggested by the term "duality."

The 1980s saw a further retreat. Gone was the notion of duality, although some English Canadians were still willing to describe Québec as a distinct society. Many Quebecers believed that this minimal recognition, were it accompanied by additional powers for Québec, could result in a compromise. However, nothing came of it.

During the federal election last spring, the Liberals and Conservatives proposed that the expression "distinct society" be revived, although their respective political platforms stipulated that it did not mean anything. Even this was too much for Canadian voters and Jean Chrétien and Jean Charest neglected to talk about it when campaigning in western Canada.

In recent months, even Daniel Johnson, leader of the Québec Liberal Party, has tossed in the towel on the expression "distinct society." In Ontario, he launched a sort of contest to see who could find other words that would not offend English Canadians.

Saturday, even before the premiers' meeting in Calgary, he accepted what Canada had not yet proposed. He announced, very pleased, that he was going to take all the credit for himself and his party. He gave Canada a remarkable blank cheque. What a sorry sight! Jean Lesage's successor relinquished Québec's character to the lowest bidder. In exchange, he obtained the assistance of politicians from Toronto, Fredericton and St. John's for his next election campaign in Québec.

I believe that this is the first time that a Leader of the Official Opposition in Québec has gone begging in English Canada for support for his party. Mr. Johnson has thus become English Canada's official candidate for the position of Québec Premier. The English-speaking provinces wrote his political platform last Sunday in Calgary. That is his strategy, the path he has chosen. I prefer to define Quebecers' interests in collaboration with Quebecers.

Be that as it may, encouraged by Mr. Johnson, the English-Canadian premiers scoured every dictionary available to find the most banal, empty words to label us. They refuse to recognize us as a people or a nation and are even afraid of the vapid expression "distinct society." The English-Canadian prime ministers have scraped the bottom of the barrel, where they undoubtedly found "unique character," an all-purpose term if ever there was one.

The Canadian premiers are so determined to erase Québec's existence as a nation that they even renamed our parliamentary institution in their document. Quebecers' proudly call it the National Assembly. They have banished the word and talk about our "legislature." It is as though they wanted to abolish our national existence and make it disappear.

However, they do say that the language of the majority, our culture and the *Civil Code* make us unique. So what? What does that mean? What does it change? Nothing at all.

What a discovery! Quebecers are unique. There is a temptation to add: just like everyone else! Quebecers are unique like the Regina Chorus or the rivière aux Escoumins, the Skydome or Cape Breton, Labatt Blue or Wayne Gretzky.

It is as though, instead of recognizing the existence of the aboriginal nations in Québec, we had simply described their language and traditions. However, we have recognized the aboriginal peoples as nations, which means that they exist as societies and have rights. It means that we respect them.

This is the difference that Canada pretends not to understand. We do not want a description of Quebecers. Bookstores are full of them and we know what we are. We want to be recognized as a people, since we are capable of assuming our destiny and development.

I note that the Calgary declaration readily speaks of the "aboriginal peoples," but not of the Québec people.

I see that our character is so specific that it is "fundamental for the well-being of Canada." Does this mean that we do not have the right to leave Canada because its well-being depends on us? Does this expression make us socially unique but political eunuchs?

This brings me to another noteworthy facet of the Calgary declaration. You are well aware of the extent to which Québec has opened itself to the world in recent years and broadened its relations with other French-speaking nations and communities and with the United States, Europe, Africa and Asia. On Friday, Québec City will welcome parliamentarians from all countries in North, Central and South America.

Quebecers believe that this is our way of developing. In Calgary, the premiers do not see things the same way. Their declaration acknowledges that our "legislature" (and not our "National Assembly") protects our unique character, but only "in Canada." They have taken great care not to open any door on the world and to avoid acknowledging Québec's right to participate in the great concert of nations. Everything falls into line. According to the premiers, since we are not a nation, how can we claim to speak on our own behalf to other peoples? This clause clearly expresses English Canada's determination to keep us in line, to confine us to the equality of the provinces. It also reflects a desire to describe Québec's difference as outmoded and folkloric, one that is of no consequence for our future.

Québec today is much more than the *Civil Code* and the French language. It is a crossroads between the American and French civilizations, a capital city clearly in tune with the Americas, Montréal, which has the highest proportion of high-technology jobs of any city on the continent, a French-language culture increasingly enriched by its contacts with foreign countries, and an economy that exports more extensively on international markets than it does in Canada.

Every day and in numerous ways, Québec is emerging in the world. The premiers meeting in Calgary want to imprison it in its past.

A close examination of the Calgary declaration reveals that our Canadian neighbours want to diminish us. Canada's ambition is that Québec not be ambitious.

Two years ago, 49.4% of Quebecers voted in favour of sovereignty. This jolt was not sufficient to earn Québec respect and recognition, much less control over its affairs. Two years ago, we mobilized all of our energies to send our neighbours the broadest appeal for change in our history.

Sunday, in Calgary, the English-speaking premiers were clear. Canada will not make any of the changes sought by Quebecers. Ontario Premier Mike Harris was categorical: "We are not offering anything specific."

The premiers have shown, beyond a shadow of a doubt, that if Quebecers want to be recognized as the people that they are, if they wish to control their destiny, there is only one course of action open to them, i.e. for a majority of them to vote next time for sovereignty.

While English Canadians discuss among themselves whether the Calgary offer is sufficiently banal for their taste, in Québec we will continue to carry out the tasks that we have collectively assumed, i.e. to create jobs for Quebecers, oversee the health and education networks, enhance the conditions of Québec families, and permanently eliminate the deficit in order to stop running up debt that will be borne by Québec young people.

We will continue to defend Québec democracy and institutions, without departing from our objectives. We are doing so for Québec's well being and to prepare the Québec people for the major challenges that await them. The Québec people will soon be better equipped to face the future and will have an opportunity to recognize itself and finally, calmly become the sovereign master of its destiny and present in the world.

Source: Notes for a briefing.

Ministerial statement by Jacques Brassard, Minister for Canadian Intergovernmental Affairs, on territorial integrity of Québec, Québec National Assembly, November 12, 1997.

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[Translation]

Québec has had to face, since the October 30, 1995 referendum, a multi-pronged strategy by the federal government that essentially aims to destabilize Québec's democratic institutions and deny not only our fundamental rights [...], but also the very existence of the Québec people. A key element in this strategy consists of conjuring up the spectre of partition of the territory of Québec in the event that it becomes sovereign.

The Québec government denounces the irresponsibility of people who resort to this partitionist rhetoric and, even more so, the irresponsibility of federal ministers and politicians who present the dismemberment of Québec as both a possibility and a defendable demand and who thus offer a moral endorsement to those who propound these arguments. All democrats, federalists, and sovereignists should clearly disassociate themselves from such talk. There has been moreover an unbroken continuity between all of Québec's prime ministers, whatever the party in power, and the representatives elected to the National Assembly. These people have always defended Québec's territorial integrity and have undertaken to continue to do so.

Partitionist arguments run counter to international law and to the practice of states in the attainment of sovereignty. It is worth recalling here the conclusions that were arrived at by the five international law experts consulted in 1992 by the Committee to Examine Matters Relating to the Accession of Québec to Sovereignty, which the National Assembly had created. The committee sought an opinion from these five experts about the territorial integrity of Québec in the event of it becoming sovereign. In their report, which still is to date the most complete, serious study of the matter, the experts Franck, Higgins, Pellet, Shaw, and Tomuschat indeed confirm that, if Québec becomes sovereign, it will fully inherit the territory that is today its own and all of the powers relative to this territory that are currently exercised by the federal authorities, notably and including over the Indian reserves.

In addition, these five experts confirm that, before Québec's possible attainment of sovereignty, its territorial integrity will remain firmly guaranteed pursuant to the constitutional principles currently in force and that the delineation of its borders cannot, consequently, be altered against the will of the National Assembly. These experts also point out that, in light of the rights and benefits that have been granted them, the Cree and the Inuit of Québec have expressly renounced, in the James Bay and Northern Québec Agreement, their rights and claims to the territories covered by this agreement. Further, since Québec has a territory with well-defined borders, the experts confirm that, under international law, these borders will constitute de facto the borders of the new state of Québec. There exists, on the applicability of this principle, a shared legal opinion that international practice expresses, notably when the predecessor state is a federation.

Other reputed jurists, both in Québec and in the rest of Canada, share this opinion. Ruling on this same principle, the Arbitration Commission of the Peace Conference on Yugoslavia came down in favour of the stability of borders in cases where federated entities become sovereign. According to the Commission, "[...] for want of an agreement to the contrary, the previous boundaries acquire the character of borders protected by international law. Such is the conclusion that the principle of respect for the territorial status quo leads to and particularly the principle of *uti possidetis juris*, which, although initially recognized in the settling of decolonization problems in the Americas and in Africa, today constitutes a generally applicable principle, as the International Court of Justice has declared."

The territorial integrity of Québec is therefore guaranteed, prior to accession to sovereignty under Canadian constitutional rules, and after sovereignty by the firmly settled principles and imperatives of general international law. According to the categorical opinion expressed by five experts, there is no room for an in-between situation where different rules would be applied since accession to sovereignty is an instantaneous event that precludes any legal vacuum.

The five experts consequently conclude that the principle of legal continuity results in Québec's territorial integrity taking precedence over all claims that seek to dismember Québec's territory, whether these claims come from the "Aboriginal people of Québec, who benefit from all the rights belonging to minorities and are enhanced by rights recognized for Aboriginal peoples under contemporary international law, without there being a resulting right of secession; or from the English-Speaking minority whose protection afforded under international law does not include any territorial effect; or from people residing near Québec's borders, who as such do not benefit from any specific protection under international law."

The applicable legal principles are therefore totally clear. Québec's territorial integrity is guaranteed before, during, and after attainment of sovereignty. The Québec government thus condemns all attempts and invitations to deny or deform this reality for the purpose of creating polarization, sowing discord, and encouraging a degradation of relations between the various components of Québec society.

In this context, the Québec government considers null, void, and unenforceable the resolutions passed by certain municipalities that wish to endorse the temptation of partitionism. Québec's borders are geographical and historical. Never will the government agree to their being redrawn on the basis of linguistic, racial, or ethnic considerations.

Québec has a territory with precise and delineated borders. It will still be its own territory the day the Québec people freely decide to become sovereign. Such a move will be a democratic one and will be made within the framework of a constitutional state.

Source: Québec National Assembly, *Journal des debats*, November 12, 1997, p. 8379-8381.

Preliminary statement by Lucien Bouchard, Prime Minister of Québec, the day following the Opinion of the Supreme Court of Canada on the federal government's Reference concerning Québec's accession to sovereignty, Québec, August 21, 1998.

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[Translation]

An important political event took place yesterday, the effects of which we have not yet finished assessing.

With the scarcely concealed aim of raising fear among Quebecers, the federal government unilaterally asked nine judges of its own Supreme Court, nine persons whose federalist faith is not in doubt, to pronounce themselves on the Canadian federalist arguments.

The Québec government, in keeping with its responsibility, refused to participate in this episode of the federal political strategy, and firmly reiterated that only the citizens of Québec have the right to choose their future, as has moreover been stated by all parties represented in the National Assembly.

Yesterday's event thus embodied the Canadian government's attempt to have its own Court and its own judges validate the central elements of its Plan B, its anti-sovereignist offensive.

What happened was the reverse: the Court demonstrated that Ottawa's arguments do not stand up to analysis, and it struck at the very heart of the traditional federalist discourse.

Overall, the federalists have been telling us for the past two years that sovereignty is a legal issue that comes within the realm of law and the court system. The federal judges contradicted them. After having answered the reductionist questions asked by the federal government, in a perfectly foreseen and predictable manner, the Court affirmed, from one end of its opinion to the other, the political nature of the process that would legitimately be set in motion by a Québec referendum on sovereignty.

Allow me to peruse, one by one, the federalist myths that were buried yesterday by the federal judges.

First myth: for decades, a certain number of federalists have contended that the sovereignist project is not legitimate.

The judges of the Supreme Court stated the contrary, and I quote them: "A clear majority vote in Quebec on a clear question in favour of secession **would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize**." End quote.

They go even further to state, and again I quote: "The other provinces and the federal government would have no basis to deny the **right** of the government of Quebec **to pursue secession**." End quote.

The federal judges thus upheld what sovereignists have been saying for 30 years: not only will a winning referendum have democratic legitimacy, but also Canada will have the obligation to recognize this legitimacy, and will not be able to deny Québec the right to achieve sovereignty.

Second myth: in 1980 and in 1995, the federalists claimed that if the citizens of Québec said Yes, Canada would refuse to negotiate with the Government of Québec. It will be recalled that in 1980, Mr. Pierre Trudeau compared the will of Quebecers to negotiate to that of a third-world country that Ottawa would not have to take into account. Again in 1995, the federalist advocates ridiculed the hand held out by the sovereignists for a negotiation after a Yes vote.

On October 12, 1995, Mr. Jean Chrétien made the following statement: "there is a myth that must be destroyed, he said, to the effect that there is someone in Canada who is authorized to negotiate" with Québec. The current leader of the Liberal Party of Québec also made a few unfortunate statements on this subject.

Yesterday, unanimously, the federal judges brought to an end what had constituted the most fallacious argument of the federalist camp. The federal judges stated and restated that after a Yes vote, Canada would have the obligation to negotiate with Québec. They even make this a constitutional obligation.

Allow me to quote a passage which reads as follows: "The clear repudiation by the people of Quebec of the existing constitutional order would confer legitimacy on demands for secession, and **place an obligation on the other provinces and the federal government to acknowledge and respect that expression of democratic will by entering into negotiations** [...]." End quote.

The federal judges therefore upheld what sovereignists have been saying for 30 years: after a Yes vote, there will be negotiations. At the time of the last referendum, we repeated this in all forums. Such was our conviction. Today it is a certainty, particularly considering that the representatives of the federal government admitted, yesterday, that they would act in accordance with the order that they themselves received from their Court.

In 1995, we played by the rules; we developed our negotiating position—the offer of partnership. We created an orientation and supervision committee for the negotiations. I even seem to recall that we appointed a chief negotiator.

The No side, for its part, wanted to raise fear among Quebecers. The next time, the men and women of Québec will be able to vote Yes with the certainty that negotiations will take place and that everything will be set in motion for an orderly transition toward sovereignty, in the respect of the rights of each of our citizens, as we have always stated.

This element of good sense, I am profoundly convinced, now confers a considerable advantage upon the sovereignist project and constitutes one of the winning conditions of which I have been speaking for several years.

Third myth: the nature of the negotiations. Certain federalists have claimed that if negotiations ended up taking place after a Yes vote, they would deal not with sovereignty, but with a renewal of federalism.

Yesterday, the Court closed this avenue with a double lock. It stipulated, and I quote, that "the negotiations [...] **would address the potential act of secession as well as its possible terms** should in fact secession proceed." The federal judges mentioned several elements that will have to be covered during these negotiations.

They recall, as we so often have, that Québec and its neighbours share, and I quote, "a national economy and a national debt." End quote. They also underline that the interests of Canada and of the provinces will have to be addressed in these negotiations. We have always said, and continue to think, that the economic interest of Canada, of the provinces, of the economy and of the debt must lead us to come to an agreement on a partnership that will preserve the common economic space between the two sovereign States.

The Court speaks of the necessary protection of the rights of minorities and states that it is necessary to take into account the interests of the aboriginal peoples. This is also our position, and this is why, in the Act respecting the future of Québec, we made the following commitment: "The new constitution (of a sovereign Québec) shall guarantee the English-speaking community that its identity and institutions will be preserved. It shall also recognize the right of the aboriginal nations to self-government on lands over which they have full ownership and their right to participate in the development of Québec; in addition, the existing constitutional rights of the aboriginal nations shall be recognized in the constitution." End quote.

Québec has always been at the forefront, within Canada, in recognizing the rights of aboriginal peoples, particularly since the resolution presented by René Lévesque in 1984 recognizing, for the first time in Canada, the existence of the aboriginal nations of Québec.

In short, on the nature of the negotiations that will follow a Yes vote in a referendum, the Court imposes upon the federalist camp obligations that the sovereignists had long since assumed.

Fourth myth: according to the federalists, after a Yes vote, in the event of a deadlock in the negotiations, the citizens of Québec would be prisoners within Canada; that they cannot get out.

I would like to say, first of all, that we have no doubt that after a Yes vote, the political and economic situation will oblige Québec and Canada not only to negotiate, but also to quickly come to an agreement on sovereignty and on the conditions of economic partnership.

However, at least theoretically, the question must be asked of what would happen in the event of a deadlock in the negotiations. On this, the Supreme Court dares not provide a precise set of directions, but when it raises this eventuality, it in no event raises the hypothesis according to which Quebecers would have to resign themselves to remaining in Canada, and to renouncing their democratic decision. On the contrary, the Court raises only a single eventuality, namely that in which, in order to break the deadlock, Québec alone would declare its sovereignty and call for international recognition.

Indeed, the Court writes that Québec's behaviour and that of Canada during the negotiation will be, and I quote, "evaluated [...] on the international plane." And the Court is categorical in adding, and again I quote, that "**a Quebec that had negotiated in conformity with constitutional principles and values in the face of unreasonable intransigence on the part of other participants at the federal or provincial level would be more likely to be recognized [...].**"

Moreover, the Court sets out in black and white, as we ourselves have stated since the deliberations of the Bélanger-Campeau Commission, and I quote, "**It is true that international law may well, depending on the circumstances, adapt to recognize a political and/or factual reality, regardless of the legality of the steps leading to its creation**." Further, the Court again affirms, and again I quote, "It may be that a unilateral secession by Quebec would eventually be accorded legal status by Canada and other states [...]."

Hence, the sovereignists and the Bélanger-Campeau Commission state the truth: in the event of a deadlock in negotiations, "it is true" that international law may recognize Québec's decision. Indeed, the Court sends a signal to the international community, indicating to it that after a Yes vote, if Canada and the provinces were to prove intransigent toward Québec, then Québec's recognition would thereby be facilitated. Thus the Court has just given us one of the supplementary conditions for the success of the negotiations.

The fifth and final federalist myth that was buried yesterday deals with the wording of the question and with the majority. Since the last referendum, a number of federalists have stated that the federal government should be involved in the drafting and in the approval of the question, or in the setting of a new threshold for the majority.

Yesterday, the Court in no way called into question the right of the National Assembly alone to decide on the wording of the question and on the threshold of the majority. The consensus within Québec on this point is as clear as it is unshakable. Moreover, Plan B had the effect of consolidating the agreement between the political parties in Québec on these points, as has been reiterated since yesterday by the leaders of the two opposition parties of the National Assembly.

The court limits itself to stating that the political authorities will make a political judgement on the clarity of the question. This is what elected officials do on a daily basis on all issues.

Our position on this is known: the 1995 question was so clear that 94% of Quebecers, a record of participation, went to the polls to vote on this capital issue; the question was so clear that the Prime Minister of Canada, in a speech to the nation, warned voters that the referendum vote meant "remaining or no longer being Canadian, staying in or leaving, that is the issue of the referendum."

Concerning the majority, the Court judges, as do we, that it must be clear. But it describes this clarity using the word "qualitative," rather than the word "quantitative." I quote the Court, when it writes "we refer to a 'clear' majority as a qualitative evaluation." Thus it does not call into question the *quantity* of votes required to declare a victory for the Yes side. The judges are familiar with the precedents in Canadian history, particularly that of Newfoundland, which entered Canada with a 52% majority. Any juridical or political statement to the effect that a result of 50% + 1 was not sufficient would call into question the validity of the Newfoundland vote.

The reality is that the federalists learned yesterday from the Supreme Court that the clear, reasonable and logical process proposed to the citizens of Québec by the sovereignists is legitimate and that they will have to negotiate its implementation after a winning referendum.

The Court thereby shakes the foundations of the federalist strategy, and undermines the arguments of fear and of the refusal to negotiate.

Taken by itself, the obligation placed on Canada to negotiate with Québec dissipates the uncertainty that caused the refusal of the federalists to negotiate to weigh in the minds of many Quebecers. Today these Quebecers find reassurance: their Yes will force Canada to negotiate.

More and more of the men and women of Québec will conclude that the time will soon come to decide, once and for all, to bring to an end our unsolvable quarrels with Canada, to build here the country of Québec, and to negotiate, with our neighbours, a mutually beneficial relationship between equals.

Thank you.

Source: Notes for a preliminary statement.

Who fears Quebecers' Democratic Determination? Brief by Joseph Facal, Minister for Canadian Intergovernmental Affairs, presented before the Legislative Committee of the House of Commons entrusted with reviewing Bill C-20 (An Act to give effect to the requirement for clarity as set out in the Opinion of the Supreme Court of Canada in the Quebec Secession Reference), Ottawa, February 24, 2000.

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[Translation]

On October 30, 1995, 2,308,360 Quebecers voted YES in answer to the question you now know so well. Today the federal government would have you—the 301 elected members of the federal Parliament—wield the power to decree that these 2,308,360 people did not understand the aforementioned question and that they must therefore be protected from themselves.

"Heavenly Father, forgive them for they know not what they do." That is the Bill C-20 message being sent to Quebecers.

Thus it is believed that this Canadian disorder may be swept from sight, while ignoring to face the fact that more Quebecers voted YES than there are electors to be found in Saskatchewan, Manitoba, Newfoundland, Nova Scotia and Prince Edward Island, all rolled into one.

C-20 will not sweep sovereignty away, nor the idea that Québec will one day become a country. How simplistic!

Yet as the government of Québec stands represented here today, it acts in the same capacity as previous Québec governments have done, regardless of their constitutional options, as a government deriving its legitimacy from the National Assembly, sole depository of the Québec people's right to choose their political status by themselves.

C-20 is unacceptable for so many reasons: This Bill seeks to subject the people of Québec to a federal trusteeship; it negates basic democratic principles; it is an insult to the intelligence of all Quebecers; it installs a system of arbitrary power; and lastly, it bears within itself the seeds of bitter disillusionment for you.

••• Subjecting the People of Québec to a federal trusteeship

Québec's existence as a political entity dates from long before the creation of the Canadian federation. Québec exercised its right to freely choose its political status when it contributed to the formation of Canada. This must always be borne in mind!

By adhering to this federation, the people of Québec neither renounced their right to choose another political status nor sought to subject its destiny for all times to come to a Parliament whose majority of members originate from outside Québec.

Yet section 1 of Bill C-20—which indirectly dictates the referendum question—allows a majority of MPs from outside Québec to rule on the adequacy of the question's clarity, then to act on such ruling despite the will of the National Assembly and Quebecers' determination, that having deemed it clear, had answered positively to it.

Some will still maintain that the Québec National Assembly remains free to ask any question it so desires. Blatantly not so! C-20 renders the 1980 and 1995 questions unacceptable, as well as the Brussels question evoked by Robert Bourassa.

In section 2 of the Bill, the federal Parliament invests itself with the power to decide what elected majority may be sufficient, even if the population of Québec were to accept the results and rally to them.

Finally, section 3 confers upon the Parliament of any other province an absolute right of veto upon the future of the Québec people through the amendment formula contained in a Canadian constitution of dubious legitimacy since it was imposed on Québec and never ratified by a Québec government.

Three sections, three schemes for derailing a democratically expressed determination.

••• Renewed negation of a basic democratic principle

C-20 also questions the universally accepted rule of democracy of 50% + 1, despite the fact that all referendums validly held in Canada to date have been based on the very same rule.

Abroad, Canada has recognized the legitimacy of many emerging countries, as always based on the 50% + 1 rule, which in fact is the standard rule by which the United Nations operates when it supervises referendums on accession to sovereignty.

The act of imposing any other rule would be tantamount to giving more weight to a federalist vote than to a sovereignist vote, which amounts to discrimination on the basis of political opinion. The principle of a common standard for electors' rights is thereby compromised.

••• An insult to the intelligence of Quebecers

C-20 states that Quebecers must be protected against their government but also against themselves because they would be unable to weigh the issues set forth in a referendum question. By the same token, it becomes more important to take the opinion of a Manitoba or Saskatchewan MP into account whose insights into clarity and obscurity exceed those of the Québec electorate. He knows best.

Ladies and gentlemen, members of the federal Parliament, do you realize what a ridiculous situation the authors of C-20 have created for you? Do you realize that you are on the eve of enshrining a legislative principle by which the judgment of elected members will be held superior to that of their electors?

C-20 is also an insult because it is a dismal distortion of the Supreme Court's opinion.

Nowhere in the referral does the Supreme Court confer upon the federal Parliament the right to oversee the content of a referendum question by authorizing Parliament to rule upon clarity even before the National Assembly has adopted the question.

Nowhere in the referral does the Supreme Court give the federal Parliament the right to impose a question that must expressly exclude any reference to an offer of partnership.

Nowhere does the Supreme Court give authority to the federal Parliament to determine a posteriori and of its own accord the required majority.

Nowhere does the Supreme Court give authority to the federal Parliament to unilaterally dictate the content of postreferendum negotiations.

The federal government played with fire when it made its referral to the Supreme Court. It got burned and thereafter found itself faced with acknowledgement of the fact that the territory of Canada can be divided based on provincial territories, with recognition of the legitimacy of the sovereigntist option, with the creation of an obligation to negotiate on an equal footing, and with the admission that in the case of bad faith on the part of the federal government, international recognition of a sovereign Québec would be facilitated.

Today the federal government is asking you, Members of Parliament, to blot out its mistake by rewriting the referral.

••• Enter the arbitrary wielding of power

The Bill C-20 initiator has also strongly emphasized respect for the rule of law.

Yet the true rule of law precludes resorting to arbitrary power. As it stands, C-20 is a monument condoning the use of arbitrary power. It wants to empower the House of Commons to declare a question unclear on the basis of "any other views it considers to be relevant." Whose views are we talking about? Likewise, it would empower you to assess a requisite majority in light of "any other matters or circumstances [that you may deem] relevant." What are the criteria for relevance?

What will the new roll of the dice be if 50% + 1 no longer stands: 55%, 60%, 65%... Faced with such random guidelines, how is a citizen to conduct him or herself? The message that C-20 sends to electors is that votes only count when you decide to recognize them.

••• Seeds of bitter disillusionment

C-20 creates illusions: that the territory of Québec will be divisible and that votes may be counted according to ethnic, linguistic or geographic criteria. This is just plain false.

The day that Quebecers will decide to form a new country, C-20 will not stand in their way. Thinking the contrary is a pure illusion. The Soviet Union tried this subterfuge in 1991 and the rest is history.

••• Conclusion

Not only is Bill C-20 unacceptable for Québec, but it is also unacceptable for all parties represented in the National Assembly.

The Québec government does not recognize any legitimacy on the part of the federal government when it comes to such interference in Quebecers' right to decide for themselves what their future will be.

The National Assembly will adopt the question it wants to adopt. As in the past, the Québec people alone will decide what constitutes clarity. The victorious option will be the one with votes clearing the 50% + 1 of validly expressed ones. Who fears Quebecers' democratic determination?

I remain firmly convinced that in the wake of a positive result, voices will resound throughout Canada for respecting Quebecers' decision and the need for negotiations carried out in good faith in the best interest of all parties.

Source: Text of the brief.

Globalization, the Federative Deficit and the Case of Québec. Speech by Joseph Facal, Minister for Canadian Intergovernmental Affairs, delivered on the Occasion of the XVIIIth World Congress of the International Political Science Association, Musée du Québec, August 3, 2000.

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[Translation]

I am delighted to welcome you to Québec and to our national capital, Québec City. Founded in 1608, Québec City will soon be celebrating 400 years of existence, making it one of the oldest cities on the North American continent. It was here, in 1791, nearly three-quarters of a century before the creation of Canada, that the first elected parliament of this North American colony was established. Québec City has been, and continues to be, the cradle of a people that not only played a role in the founding of Canada, but also predated it and, to some extent, paved the way for the introduction of representative political institutions.

In recent times, a new word has entered our vocabulary, describing a concept that is increasingly likely to shape our daily lives as individuals, as a people and as a State. The word in question is globalization, and defining it is no easy task. The *Webster* describes it in very general terms as "to organize or establish worldwide." What is primarily involved here is a basically economic phenomenon—the market economy logic, whose influence at the continental and global levels is growing steadily in importance.

Our traditional points of reference, namely East/West blocks and North/South relations, are either outdated or have undergone a radical transformation. We are living in an era of instantaneous change, in a world with increasingly open economic boundaries, where our interactions, formerly concentrated in a small circle, now cut across state and cultural boundaries, in a context dominated by the explosion of new technologies for communications and exchange.

Thus, the concept of globalization involves a more open world economic market, the emergence of a world knowledge and information economy, and a planet-wide distribution of political and cultural values arising from particular contexts.

It is therefore not difficult to understand that globalization can create sources of tension and uncertainty. Indeed, it alters the spatial organization of a vast range of human activities that are now carried out on a transcontinental or inter-regional basis, with all that this implies for the exercise of State prerogatives.

Globalization is by no means a new phenomenon. It has always been present in social evolution. However, it was a question of degree. In ancient times, it was quite possible for societies to live in autarky. But this did not last. Contacts were forged. A thousand years later, autarky was still possible but less probable. And today, the handful of States that, for mainly ideological reasons, still attempt to practise it have run into economic and social problems that threaten their very existence.

In short, the main characteristic of globalization in its current form is its scope, and perhaps also the feeling underlying it, namely that we have gone past the point of no return. Today, globalization is no longer a linear process, but a multidimensional process that can be measured in all the main spheres of human activity, in political, economic, social, cultural, administrative, legal, military, technological and environmental life. It is characterized by the extent and close-knit nature of its networks and by the intensity of its flows. Its impact on societies, groups and individuals differs in intensity, although some people go as far as to describe it as a veritable revolution.

At the political level, this leads inevitably to changes in the way power is exercised. If, at some point in the future, a theory of globalization were to be developed, it would have to address such fundamental questions as the tiering of decision-making authorities and the unequal distribution of access to power, with all that this implies for the welfare of peoples, groups and individuals and for the influence they are likely to gain or lose on the checkerboard of globalization.

In the eyes of some observers, the advent of globalization has sounded the death-knell of the nation-state concept. If the structure of the organizations created to implement globalization is any indication, I have my doubts as to the validity of this statement. At the very least, it seems to me to be premature. The concept of nation-state that has shaped the political, economic and social organization of our societies in the post-Westphalian age seems to me to be as firmly entrenched as ever. This does not mean, though, that globalization will not bring some far-reaching changes in the future—on the contrary. Such changes are already knocking at our door, especially in our perception of the hierarchical order of our political players.

Indeed, because the phenomenon of globalization causes perspectives to change, it follows that the development of the State, henceforth perceived as peripheral, will be approached from a much more regional perspective. This change in the perception and in the very order of things will inevitably raise the question of how much flexibility the new local communities will have in future in the face of restrictions arising from political and economic decisions made at the centre. As a result, the discourse on local autonomy will have to be brought up to date and perhaps even completely overhauled.

Other observers have noted that, at the political level, globalization causes the public space to shrink, in that the citizens and the State lose some of their power over the political and social agenda, and over their ability to establish priorities within the political agenda. The experience of the European Union, which is both an advanced and a regional form of globalization, has proved this, and a new term has been coined to describe this side effect of globalization: the "democratic deficit."

Basically, it has been observed, in the case of Europe, that portions of sovereignty have been withdrawn from national parliaments and transferred to the European Union's political authorities. If such transfers have, in general, been quite smooth, it is probably because the main decision-making authority remains to this day the Council of the European Union, composed of all the member States. However, as the Council is intended first and foremost to be an intergovernmental forum, the States are naturally represented by their respective executives, within a relatively closed framework. As a result, the national parliaments—in other words, the legislative branch—has been excluded from the conception of public policy in many areas.

The same trend can be seen in other international forums, although with less obvious repercussions, since in these cases the transfers of sovereignty have been indirect. However, two main points remain constant. First, it is the State executives that take part in these forums, and second, the general public is usually kept aside from the deliberations and the decision-making process.

In addition, the decisions that are eventually made tend to be irreversible, even if, in many cases, the governments concerned need the approval of their own national parliaments before implementing them. There is usually no real possibility of backtracking, because a State whose parliament consistently refused to approve the conventions drawn up at the international level would effectively be condemning itself, in the medium term, to a form of exclusion.

The phenomenon of the democratic deficit raises a serious problem, because most liberal democratic constitutions are based on a delicate balance in which State prerogatives are shared between the legislative, executive and judicial branches. Indeed, the democratic nature of a constitution lies precisely in that balance, which precludes domination by one branch or one individual and allows for the broadest possible participation in the State's political life.

Generally speaking, when sovereignty is divided up in this way, the executive branch has jurisdiction over foreign relations, including the power to enter into treaties. However, it is important to remember that this typical allocation of power was first devised at a time when international relations were much less important than they are today, and when war was a central element, therefore justifying the secrecy surrounding them.

Since the end of the Second World War, international relations have developed to such an extent and have become so important that, in some cases, model national laws are now actually being drawn up behind the doors of international forums, on subjects as varied as private law and taxation. Given that this type of work was originally meant to come under the jurisdiction of the State's legislative branch, it is easy to see how globalization can change the constitutional balance of liberal democracies.

In countries where sovereignty, in addition to being shared between the legislative, executive and judicial branches, is also shared between a federal government and federated entities (as is the case in Canada), the deficit is even greater. Indeed, while the subjects addressed in international forums used to be mainly those usually falling under federal jurisdiction, such as defence, navigation and international trade, this is no longer the case today.

With economic liberalization and its corollary, freedom of movement, it is increasingly clear that even local policies, which usually come under provincial jurisdiction (social policies, for example), can no longer be drawn up in a vacuum and must also be discussed at the international level.

However, state practice shows that, where as federations are concerned, it is usually the executive branch of the federal government that takes part in the international forums at which a growing percentage of public policies, even those falling in principle under the exclusive jurisdiction of the federated entities, are now conceived.

Globalization has therefore had the effect, in federations like Canada, of disturbing the institutional and constitutional balance even further. This has produced a second type of imbalance, which I will call the "federative deficit."

The federative deficit is just as worrying as the democratic deficit—and with good reason. In many liberal democracies, especially those that have a parliamentary system based on the British model, as is the case in Canada, the separation of power between the executive and legislative branches of the State has become much less marked over the years, for reasons that have nothing to do with globalization. However, the distribution of power between the various levels of government in a federation is still just as crucial today as it has always been, because without it, there can be no federal system. In Canada, we know all about this!

Globalization therefore presents a sizeable challenge to federal systems. By maintaining the current monopoly of federal executives over international relations, we are inevitably witnessing an erosion of the federal principle as the range of public policies discussed on the international stage grows.

The federal principle is eroding because, through globalization, the federated entities are losing much of their latitude in conceiving public policies, and are not being compensated for this by being allowed to participate directly in the appropriate international forums, as are unitary States and federal governments.

To add to the problem, this situation benefits the federal government in a second way: by granting itself the right to debate subjects usually under the jurisdiction of provinces, the central government is effecting a net transfer of provincial jurisdiction in its favour.I hardly need add that the growth in international activity from which this transfer results, and which is based ultimately on the development of communication technologies, will certainly be gathering speed in the future.

If the federal principle is to be preserved in the context of globalization, the federated entities would have to have control of their own international relations for all issues related to their exclusive internal jurisdiction, and conversely the federal governments would have to agree to limit their interventions to exchanges concerned solely with matters under their own jurisdiction.

In Québec, this idea is by no means new. Paul Gérin-Lajoie, a man of great vision who was Québec's Minister of Education at the time of the Quiet Revolution, was already talking about it in 1965, over thirty years ago. I quote:

> *[...] the multiplication of exchange of all kinds between countries has necessitated the direct or indirect intervention of the modern state so that these exchanges may be made basic elements of progress, of understanding and of peace between peoples. In many fields which have now assumed international importance, Quebec wishes to play a direct role in keeping with its true countenance. [...]*
>
> *There was a time when Ottawa's exclusive exercise of international powers was scarcely prejudicial to the interests of the federated states, inasmuch as the field of international relations was fairly well defined.*
>
> *But, in our day, this is no longer so. Interstate relations now touch every aspect of social life. This is why, in a federation such as Canada, it is now necessary for those member groups, who wish to do so, to participate actively and directly in the preparation of international agreements with which they are immediately concerned. [...] It is not admissible [...] for the federal state to exert a kind of supervision and adventitious control over Quebec's international relations. (Address delivered by Mr. Paul Gérin-Lajoie, Minister of Education to the Members of the Montreal Consular Corps, Monday, April 12, 1965, at the Windsor Hotel)*

Obviously, the main problem standing in the way of such a solution, for Québec and for members of other federations, would be the resistance of the central governments as they jealously protect their prerogatives. In the Canada/Québec situation, there is also the constitutional standpattism to which we have been irrevocably condemned ever since the adoption of the 1982 Constitution without the agreement of Québec, the cradle of one of the two peoples responsible for the foundation of the Canadian federation in 1867.

It is therefore clear that if we are unable to leave room for the federated entities on the international stage, and continue to reserve it exclusively for fully sovereign States, the federated entities that have the means to do so will naturally seek a change in their status, driven by the need to ensure that their communities are able to develop to their full potential.

This temptation will be all the greater since globalization has the effect of reducing one of the gains of the federal system, namely the maintenance and protection of a common economic space. Given that this gain could henceforth depend increasingly on the international order, many federated entities may find that they are no longer satisfied with their current political arrangements.

In the eyes of the Québec government, there is no doubt that, in such circumstances, globalization has rendered Québec sovereignty even more necessary and more urgent than ever before. It brings a new impetus and a wave of modernity to our national project. Those who used to claim that we were engaged in a rear-guard battle must now think again. As Bernard Landry, Québec's Vice-Premier and Minister of State for the Economy and Finance, said recently, in the new world context, sovereignty is no longer simply a question of survival, prosperity and international influence for nations; the very quality of their democratic life has been called into question by the phenomenon of globalization.

It is therefore imperative and urgent for Québec to move closer to the emerging supranational powers that will, in the future, play an increasingly important role in maintaining and developing the collective well-being of Quebecers. Given that participation in these international forums is reserved solely for recognized States, our democratic duty requires us to act if we are to preserve what we are and procure a promising future for our community.

The Québec government's goal continues to be democratic accession to sovereign status for Québec. In 1998, in an opinion requested by the federal government on Québec's secession, the Supreme Court of Canada recognized the democratic validity of the Québec sovereignist project. More recently, the Québec government has had to denounce the Canadian federal parliament's adoption of an Act designed to place further obstacles in the way of the desire of Quebecers to move towards sovereignty, thus ultimately giving the English-speaking majority in the rest of Canada a veto on Québec's future.

Through Bill C-20, the Federal Parliament is attempting to claim for itself the right to dictate the wording of the referendum question and the project to be debated when, in fact, these elements are part of the prerogatives of the National Assembly and the people of Québec. With Bill C-20, the Federal Parliament is also attacking fundamental democratic principles by setting aside the 50% + 1 rule in favour of a threshold that it will set arbitrarily once the referendum results are known. It is also attempting to impose unilaterally a list of subjects to be dealt with in post-referendum negotiations. However, nowhere in the advisory opinion rendered by the Supreme Court of Canada is the Federal Parliament authorized or invited to adopt such legislative measures.

It is thus easy to understand that this Act has been responsible for a further deterioration in relations between Québec and Canada within the Canadian federation, by calling into question the freedom of the Québec people in decisions concerning its political future, as well as the prerogatives of the State of Québec, the only majoritarily French-speaking State in North America. [...]

Source: Text of the speech.

Speech by Lucien Bouchard, Prime Minister of Québec, presented before the Québec National Assembly upon the passage of Bill 99, An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State, December 7, 2000.

•••

[Translation]

Mr. President. More than 200 years ago, our ancestors decided to endow Québec—or what was then called Lower Canada—with a legislative body. Since that time, our people's elected representatives, who have come from across Québec, have assembled there to debate key issues, sometimes bitterly, and to adopt the laws that govern our lives as a society. Our parliament, which predates the British North America Act, remains at the heart of who we are and at the centre of the activities of our State.

[...]

Throughout the 20th century, our State asserted itself and our people repeatedly reiterated its attachment to it. Not once did changes in government or the arrival of new political parties cause us to waver in the firm conviction, shared by all, that this State is the only one which truly belongs to us and over which we have full control.

At the start of the Quiet Revolution, when the time came to take into our own hands our lives as a society, and in particular our economy, our leaders naturally relied on the State. And Quebecers gradually became more and more masters in their own house.

At the beginning of the 80s, the Liberal Party's political platform, known as the "Beige Paper," accurately summarized the evolution in our history and in the Québec State, and I quote:

> *"It is becoming more and more common to speak of the Québec State. This change in vocabulary is not a semantic accident; rather, it reflects a change in perception. Québec society is perceived more and more clearly as being distinct and confronted by new landmark challenges. The idea that this society must be in control of the major forces behind its development in order to survive and flourish is gaining ground. Increasingly, the conclusion is that the Québec government is the best means available to Quebecers for ensuring that they thrive and assert themselves in accordance with who they are as a people."*

The great collective movement of the Quiet Revolution sparked a bee-hive of social and intellectual activity that affected all spheres of our society. It had a major political impact. A new will to achieve autonomy spurred some Quebecers to mobilize and affirm loud and clear that the simple traditional demands were no longer enough. The sovereigntist movement, originally a minority representing a minute percentage of the electorate, began to spread throughout Québec. Rapidly, in just two elections, one in three voters cast a ballot in favour of sovereignty-association. In 1976, the public placed its trust in René Lévesque and his party, giving them a majority government.

It was a groundbreaking election. For the first time, Quebecers were confronted with a new choice: continue living under the federal regime, inherited from the Act of 1867, or make Québec into a sovereign state associated with its neighbours. Faced with this situation, Prime Minister of Canada, Pierre Trudeau affirmed in February 1977: "*We must have the courage to ask ourselves the question... we must not be afraid to lose or win the battle... I have the feeling that we will win. But I must accept the rules of the game.*"

In 1980, Quebecers were asked to make this fundamental choice. A spirited debate arose. Québec's political parties criss-crossed our territory in an effort to meet as many people as possible. The federal government waded in, even investing tremendous sums of money to defend its option. Quebecers went to the polls on June 20, 1980. As a result of this rendezvous, the inalienable right of our people to decide their own future was recognized by all, both here and elsewhere.

The outcome of the referendum marked a victory for the federalist side. Afterward, federalist leaders promptly recognized the right of Quebecers to decide their future. In 1991, 11 years after the referendum, Jean Chrétien, then Leader of the Opposition in the House of Commons, reaffirmed this inalienable right of Quebecers, emphasizing that the federal government would never have become involved in the 1980 referendum had it not recognized this right.

The importance of the 1980 rendezvous was also acknowledged in 1997, by the current Leader of the Opposition in the National Assembly, who affirmed, and I quote: "Let us be clear about one thing: the right of Québec to decide its own future was settled in 1980. There is no question of going back on that."

This right, our most fundamental as a people, has since been exercised twice. First of all, you will remember that in 1992 Prime Minister of Québec, Robert Bourassa, proposed to Quebecers—a free society able to take charge of its destiny—a draft political agreement known as the Charlottetown Accord. The proposal was brought before the National Assembly, where it was debated and adopted. As everyone knows, the accord was rejected, by the majority of votes cast.

It should also be remembered that this second referendum was held in accordance with the rules of Québec democracy. The organization of the referendum, the rules for financing the two options and the oversight of the voting process were entrusted to the chief electoral officer and subject to the Referendum Act. Not once did the federal government at that time, although an ardent supporter of the accord, call into question the ability of Québec democracy to ensure that the voting process would be carried out smoothly and that an indisputable result would be obtained.

Then came 1995. After the failure of the Meech Lake and Charlottetown Accords, the newly elected government of Jacques Parizeau called Quebecers to a third referendum. Their political future was again at issue. Our compatriots' freedom of choice was not part of the debate and was not contested. Appropriately, each side concentrated its efforts on promoting its option.

Throughout Québec, families, friends and co-workers debated the issue. Everyone in Québec felt directly involved, but also knew that such an important decision would be made by Quebecers alone. Daniel Johnson, head of the NO side at the time, defended the federalist option without once questioning this basic truth. As premier, he recognized his fellow Quebecers' right to freedom of choice: "*It is extremely clear to me that in Québec, we already exercised the right to self-determination, in 1980.*"

The results of October 30, 1995 showed the world the strength and vigour of democracy in Québec. Nearly 94% of registered voters went to the polls. The YES side won 49.4% of the vote, and 54 000 votes separated the two options. From the standpoint of the current political reality, it is appropriate to stress voter turnout: 94% of registered voters cast their ballots.

But this democratic exercise, covered by media around the world, did not yield the results many expected. Some had hoped that such a close victory would spur the federal government to actively look for a solution to the Québec problem. It was reasonable to expect that an effort would be made to put 1982 to rights or, at the very least, that an attempt at openness toward Québec would be made. Instead, it was the opposite. The day after the vote, federal promises of a better tomorrow swiftly gave way to the harsh reality of disillusionment. A vague resolution of the federal Parliament recognizing Québec as a distinct society was perceived for what it was—empty of meaning—and quickly sank into oblivion.

Informed observers noted instead that the results forced Ottawa to reach an unpleasant conclusion, namely, that the federalist option could lose and had more to lose in 1995. Even in their worst nightmares, federal strategists had not imagined that a sovereigntist victory might be a likely scenario. And then inspiration struck: attack Québec democracy, attack Québec institutions, attack the Québec people's freedom of choice. Thus, the die was cast. Wherever possible, Québec's aspirations were to be thwarted. We were a far cry from the promises of the Canadian Prime Minister, who, in October 1995, in a television statement a few days before the referendum vote, solemnly promised that no change affecting Québec's powers would be made without the consent of Quebecers.

The federal government then decided to take the case to the Supreme Court of Canada, asking the Court to rule on three questions which from the outset were criticized by international experts for their very wording. During the hearings, the Attorney General of Canada even went so far as to deny the Québec people's existence. However, in August 1998, the Supreme Court of Canada handed down an opinion that took more than one person by surprise and created a veritable commotion in Ottawa. Many times over a number of years, the federal government had implied that the sovereigntist plan was illegitimate. The Court affirmed the contrary.

In addition, because the results of the third referendum, the one held in 1995, were so close, Ottawa began contesting the wording of the question and the majority required for a YES victory. However, the Supreme Court in no way challenged the right of the National Assembly to decide, on its own, both the question and the majority required.

But what bothered the extollers of a hard-line stance most was the Court's position on the logical consequence of the legitimacy of the sovereigntist plan—the obligation to negotiate in good faith. Not only did the Court affirm that the rest of Canada was obliged to negotiate in the event of a sovereigntist win, it further declared that such negotiations were mandatory under the Constitution.

The federal government decided it would not be dictated to, not even by its own Court, all the judges of which it appoints. Instead of replacing the nine justices of the Court in one fell swoop, the federal government opted to go the easier, legislative route, tabling Bill C-20. The purpose and contents of the bill were immediately denounced by all political parties represented in the Québec National Assembly, who were supported by a broad spectrum of groups and institutions.

Claude Ryan, former leader of the Québec Liberal Party summarized the situation very well when he said: "*The bill gives credence to the impression that, in Québec, democracy is not wholly reliable, that they (Quebecers) cannot be allowed to function on their own and that they need to be given guidelines. Whereas, in actual fact, democracy in Québec is ahead of democracy at the federal level.*"

Over and above the sovereigntist option, the federal government's intervention attacks two crucial cornerstones of our entire public consultation system—the wording of the question and the majority required. Moreover, it is important to emphasize that, in substance, our various political options are no longer at issue, but our democratic freedom is.

First, an undeniable arrogance is revealed in the federal law with regard to the wording of an eventual question. It seems that Quebecers are no more capable of understanding the meaning of words than the meaning of sentences and questions. The House of Commons is to have its say and give its assent. It is no longer Québec, but another jurisdiction, that is to decide. As if we were less clear-sighted than everyone else and needed to be protected from our own judgment.

The ludicrousness of the situation was best summed up by the MNA for Châteauguay and Chief Opposition Whip, who, after the 1995 referendum, stated, and I quote: "There is a duty of clarity. But it is the public that will use its judgment to decide whether or not clarity has prevailed. In this case, I feel the Prime Minister [of Canada] should trust in the good judgment of Quebecers."

Central to Bill 99, section 3 states that the Québec people determines alone, through its own political institutions, the terms of the exercise of its right to decide the political regime and legal status of Québec. There is nothing new in this statement. It aims only to prevent any outside intervention in our debates relative to the future of Québec and clearly asserts that we have no collective need of a big brother.

As if that were not bad enough, the federal government also decided to change the rules of the game even though it had accepted them on three occasions. It devised a new way of calculating votes in order to get around, with the grace of an elephant, the basic rules governing majorities. It created the floating majority whereby the vote of Quebecers is reduced to a cork bobbing on a rising tide. In so doing, the federal Parliament attempted to replace a basic rule of democracy by a shameful stratagem.

This novelty, contested by Québec opinion leaders and political parties even found its echo abroad. Last April, an eminent former Prime Minister of France, Raymond Barre, admitted to being perplexed by such a practice, and I quote: "*This strikes me as rather singular and odd. Wanting to set a majority that I would term opportunistic does not seem acceptable from the standpoint of democracy.*"

Bill 99 is based on the intrinsic value of each person and each vote and is intended as a response to this drifting away from democracy. The bill states that when the Québec people is consulted by way of a referendum under the Referendum Act, the winning option is that which obtains a majority of valid votes cast, that is, 50% of such votes plus one. However, since all of our institutions are under attack, the bill tabled before this Assembly covers all prerogatives of the Québec State.

The various chapters of the bill decree, in summary, that the Québec State derives its legitimacy from the will of our people, that French is the official language of Québec, that our English-speaking minority has inalienable rights, that our territory is inviolable and that Aboriginal nations must develop and reach their full potential. The final provision of the bill provides that no other parliament or government may reduce the powers, authority, sovereignty or legitimacy of the National Assembly, or restrict the right of the Québec people to exercise its democratic will in deciding its own future. It is therefore more than a mere law; rather, it resembles a charter of the political rights of the Québec people.

It has been said that this bill corresponds more to a sovereigntist dialectic and that federalists should therefore steer clear of it. The defense of the National Assembly's powers is not the business of one camp or the other. At issue today is the adoption of a law reaffirming the right of each citizen, of each one of us, to cast a vote—just one vote, but what a vote—to decide our future. Is it necessary to be a sovereigntist to reaffirm the powers of the Québec State, to proclaim loud and clear our territorial integrity, to reiterate the rules of democracy, to preserve the right of Quebecers to decide their future at a time when it is being brutally assailed at the federal level?

Even if the answer is obvious, I feel it is appropriate to simply quote the words of one of my predecessors, Robert Bourassa, who made the following statement in 1992: *"In [Canadian] federalism, Québec's goal is to obtain all powers for managing its social, cultural and economic development. Québec also notes that, under the federal system, it retains its right to self-determination or its right to sovereignty, which was recognized in fact in 1980."* To my mind, if the Official Opposition needed a blank cheque to support the *Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State*, it would find it in Mr. Bourassa's words.

After all these generations of men and women who have devoted the best years of their lives to the public service, after all these calls to an election or a referendum, after millions of Quebecers have gone to the polls generation after generation to cast their ballots, after all these years during which we were able to freely decide our government and political status, we will not accept that another parliament make a travesty of the democratic rules that have characterized and will continue to characterize our history. This legislation preserves our fundamental rights. It decrees that our freedom cannot be curtailed. It enables us to keep all of our options open and to look to the future with the serenity of a people sure of itself and aware of everything in which it can succeed.

I would feel that I was betraying the memory and actions of my predecessors if we were to submit to the yoke of Bill C-20. We must not be silent accomplices in the federal offensive. It is our sacred duty, in this Assembly and elsewhere, to defend the integrity of the institutions that have been handed down to us. The doors to the future of Québec, to the realization of the full potential of our people, as well as to its development and choices, must be kept wide open.

In conclusion, I would like to quote another former Prime Minister of Québec, René Lévesque: *"The right to control one's own national destiny is the most fundamental right Québec society possesses."* We have come together this morning to affirm and defend loud and clear this fundamental right, in the eyes of history.

Source: Notes for an address by the Prime Minister upon the passage of Bill 99; Québec National Assembly, *Journal des débats*, December 7, 2000, p. 8575-8578.

DOCUMENTS

DOCUMENT 1

Correspondence between W. L. Mackenzie King, Prime Minister of Canada, and Adélard Godbout, Prime Minister of Québec, regarding the Constitutional amendment on unemployment insurance, 1940.

C O P Y

Ottawa, January 16, 1940.

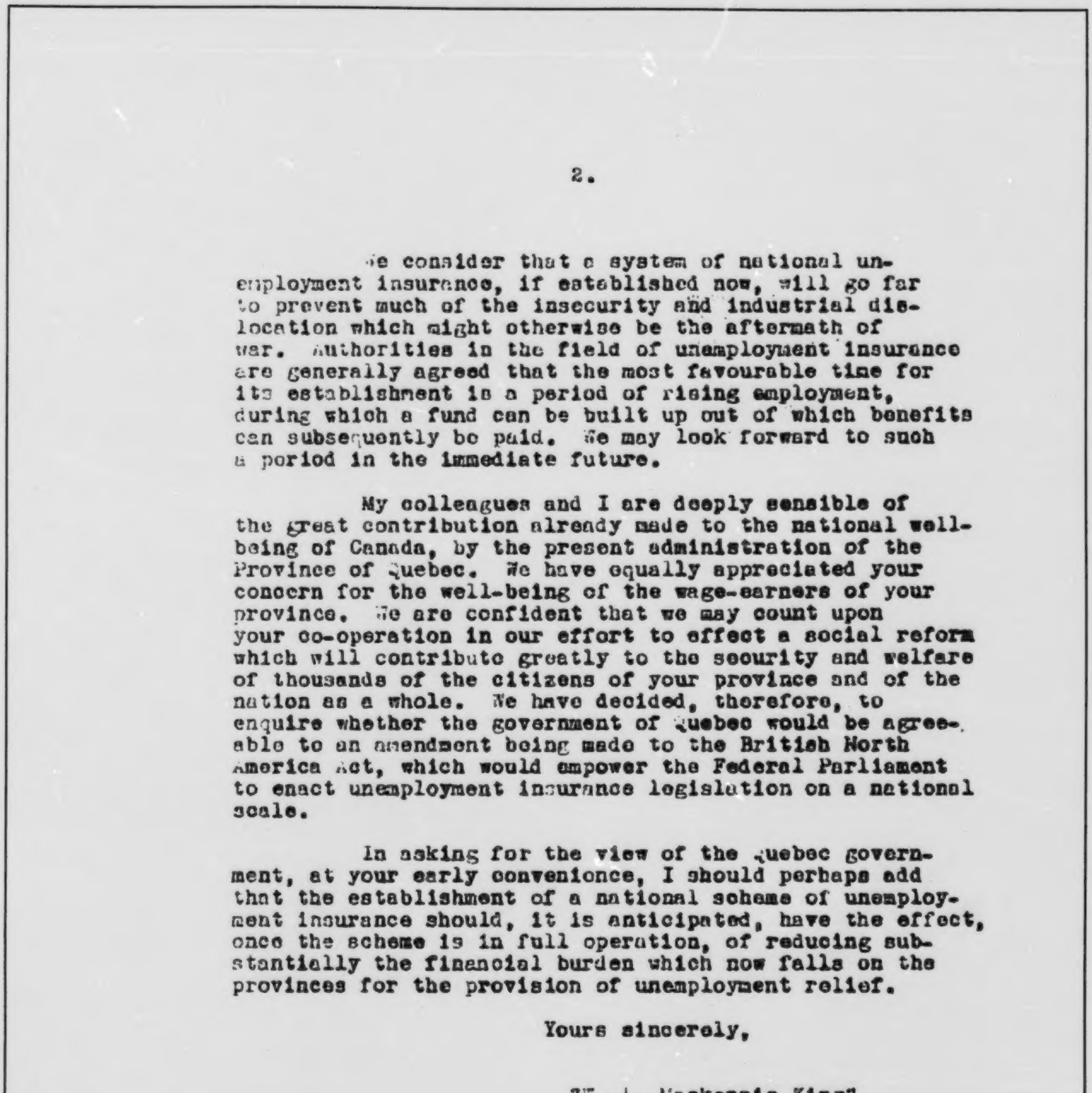
Honourable Adelard Godbout,
Premier of Quebec,
Quebec, Quebec.

My dear Premier:

On November the 5th, 1937, I wrote to the Premiers of the several Provinces to enquire whether their governments would be agreeable to an amendment being made to the British North America Act, empowering the Federal Parliament to enact unemployment insurance legislation.

I pointed out, at that time, that my colleagues and I were convinced that a national system of unemployment insurance would contribute materially to individual security and industrial stability, and that it would assist in mitigating the distress incident to any recurrence of widespread unemployment.

The government takes the view that the need for unemployment insurance has been greatly enhanced by war-time conditions. We may reasonably anticipate a period of increasing employment during the actual progress of the conflict; indeed actual employment in Canada at the present time has reached an all-time high. At the same time we cannot fail to realize that much of our labour and productive capacity is necessarily engaged in the production of arms and other war supplies, and that employment of this character will increase as the struggle progresses, with the result that, at the close of hostilities, we shall inevitably be faced with the problem of adjusting our economy to production for peace-time needs. This readjustment will necessarily be accompanied by changes in employment for many of our citizens, and can scarcely fail to involve temporary unemployment in many instances. My colleagues and I feel that it is our clear duty to take every possible step to be prepared to meet these conditions when they arise.



2.

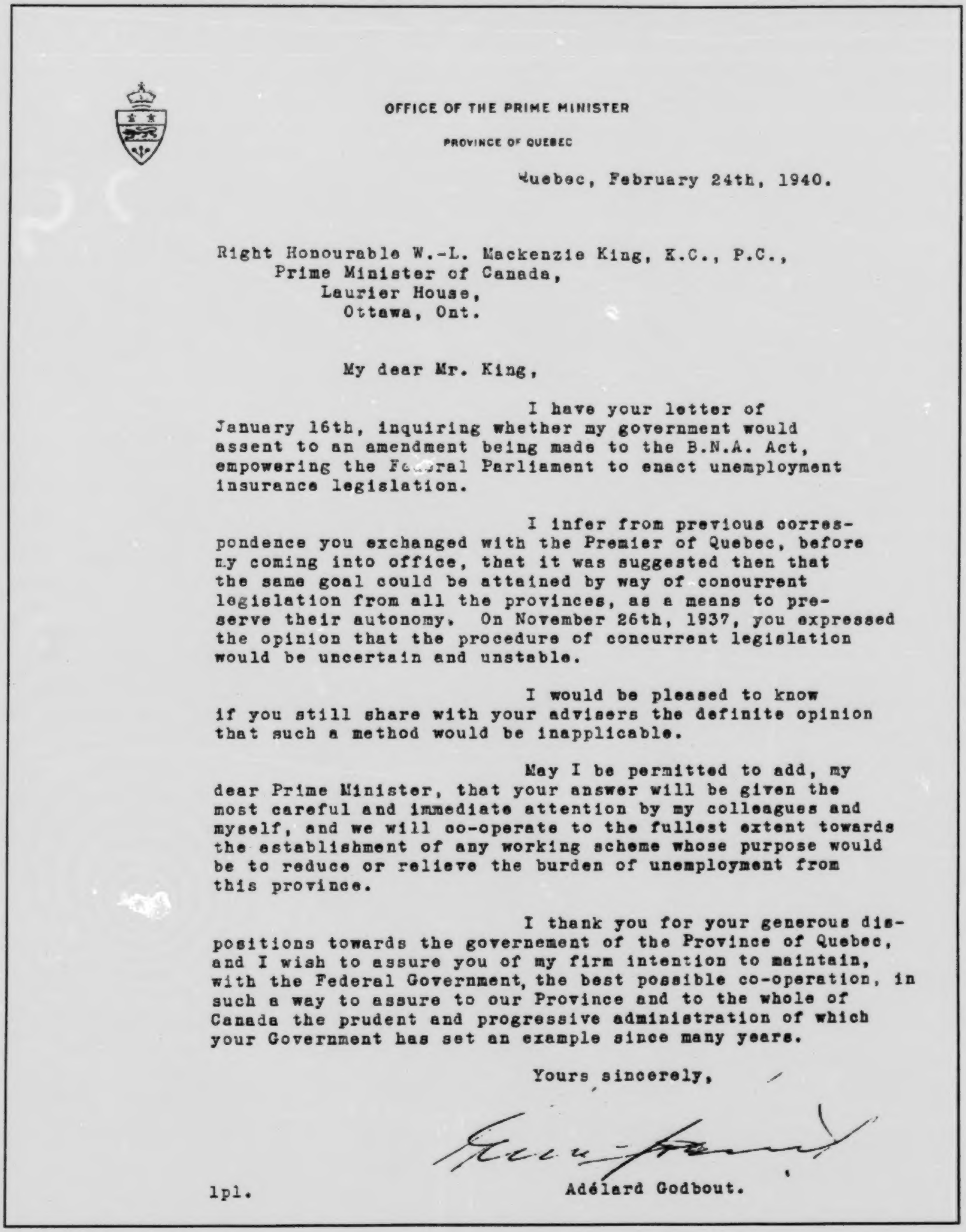
We consider that a system of national unemployment insurance, if established now, will go far to prevent much of the insecurity and industrial dislocation which might otherwise be the aftermath of war. Authorities in the field of unemployment insurance are generally agreed that the most favourable time for its establishment is a period of rising employment, during which a fund can be built up out of which benefits can subsequently be paid. We may look forward to such a period in the immediate future.

My colleagues and I are deeply sensible of the great contribution already made to the national well-being of Canada, by the present administration of the Province of Quebec. We have equally appreciated your concern for the well-being of the wage-earners of your province. We are confident that we may count upon your co-operation in our effort to effect a social reform which will contribute greatly to the security and welfare of thousands of the citizens of your province and of the nation as a whole. We have decided, therefore, to enquire whether the government of Quebec would be agreeable to an amendment being made to the British North America Act, which would empower the Federal Parliament to enact unemployment insurance legislation on a national scale.

In asking for the view of the Quebec government, at your early convenience, I should perhaps add that the establishment of a national scheme of unemployment insurance should, it is anticipated, have the effect, once the scheme is in full operation, of reducing substantially the financial burden which now falls on the provinces for the provision of unemployment relief.

Yours sincerely,

"W. L. Mackenzie King"



OFFICE OF THE PRIME MINISTER
PROVINCE OF QUEBEC

Quebec, February 24th, 1940.

Right Honourable W.-L. Mackenzie King, K.C., P.C.,
Prime Minister of Canada,
Laurier House,
Ottawa, Ont.

My dear Mr. King,

I have your letter of January 16th, inquiring whether my government would assent to an amendment being made to the B.N.A. Act, empowering the Federal Parliament to enact unemployment insurance legislation.

I infer from previous correspondence you exchanged with the Premier of Quebec, before my coming into office, that it was suggested then that the same goal could be attained by way of concurrent legislation from all the provinces, as a means to preserve their autonomy. On November 26th, 1937, you expressed the opinion that the procedure of concurrent legislation would be uncertain and unstable.

I would be pleased to know if you still share with your advisers the definite opinion that such a method would be inapplicable.

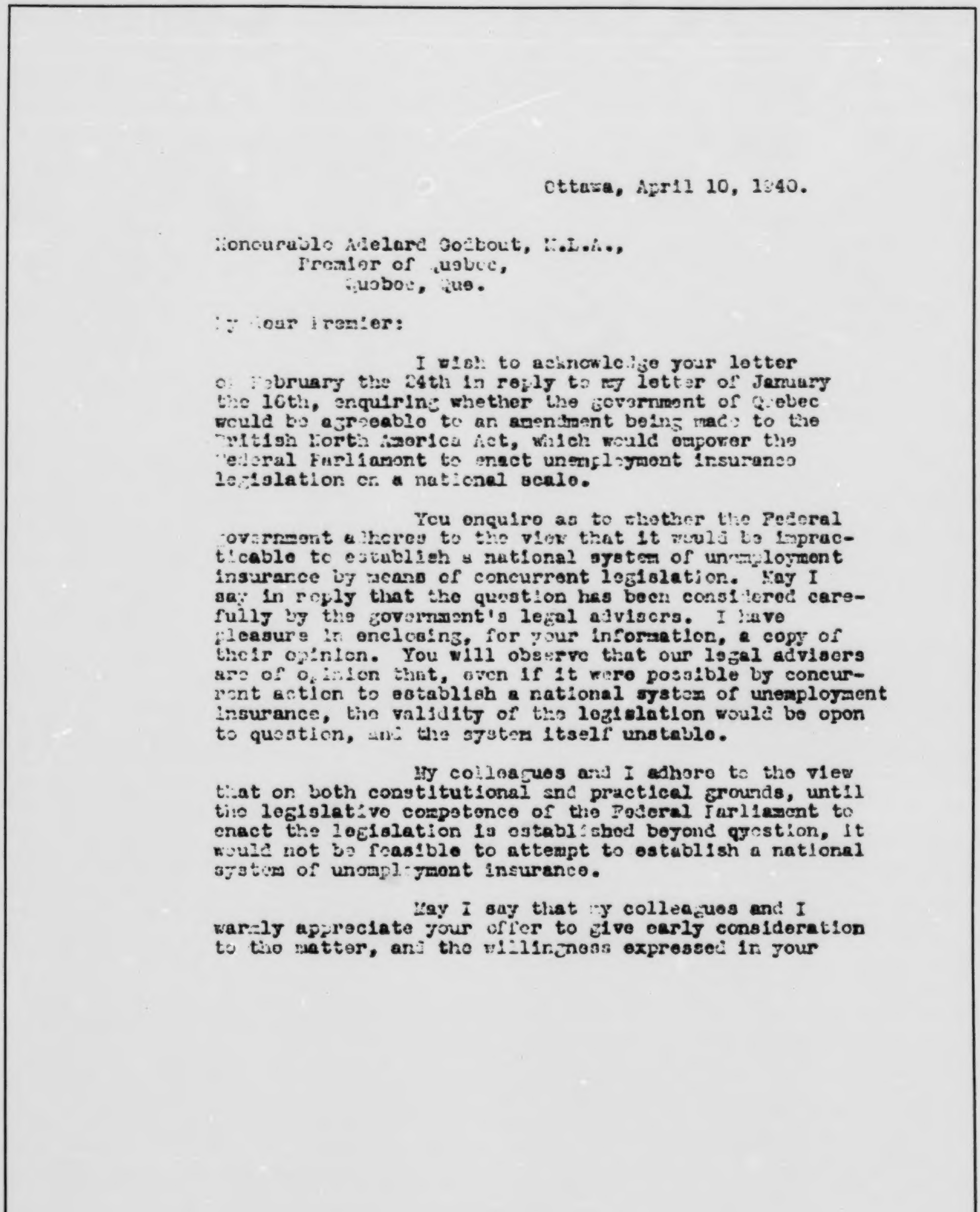
May I be permitted to add, my dear Prime Minister, that your answer will be given the most careful and immediate attention by my colleagues and myself, and we will co-operate to the fullest extent towards the establishment of any working scheme whose purpose would be to reduce or relieve the burden of unemployment from this province.

I thank you for your generous dispositions towards the governement of the Province of Quebec, and I wish to assure you of my firm intention to maintain, with the Federal Government, the best possible co-operation, in such a way to assure to our Province and to the whole of Canada the prudent and progressive administration of which your Government has set an example since many years.

Yours sincerely,

Adélard Godbout.

lpl.



Ottawa, April 10, 1940.

Honourable Adelard Godbout, M.L.A.,
Premier of Quebec,
Quebec, Que.

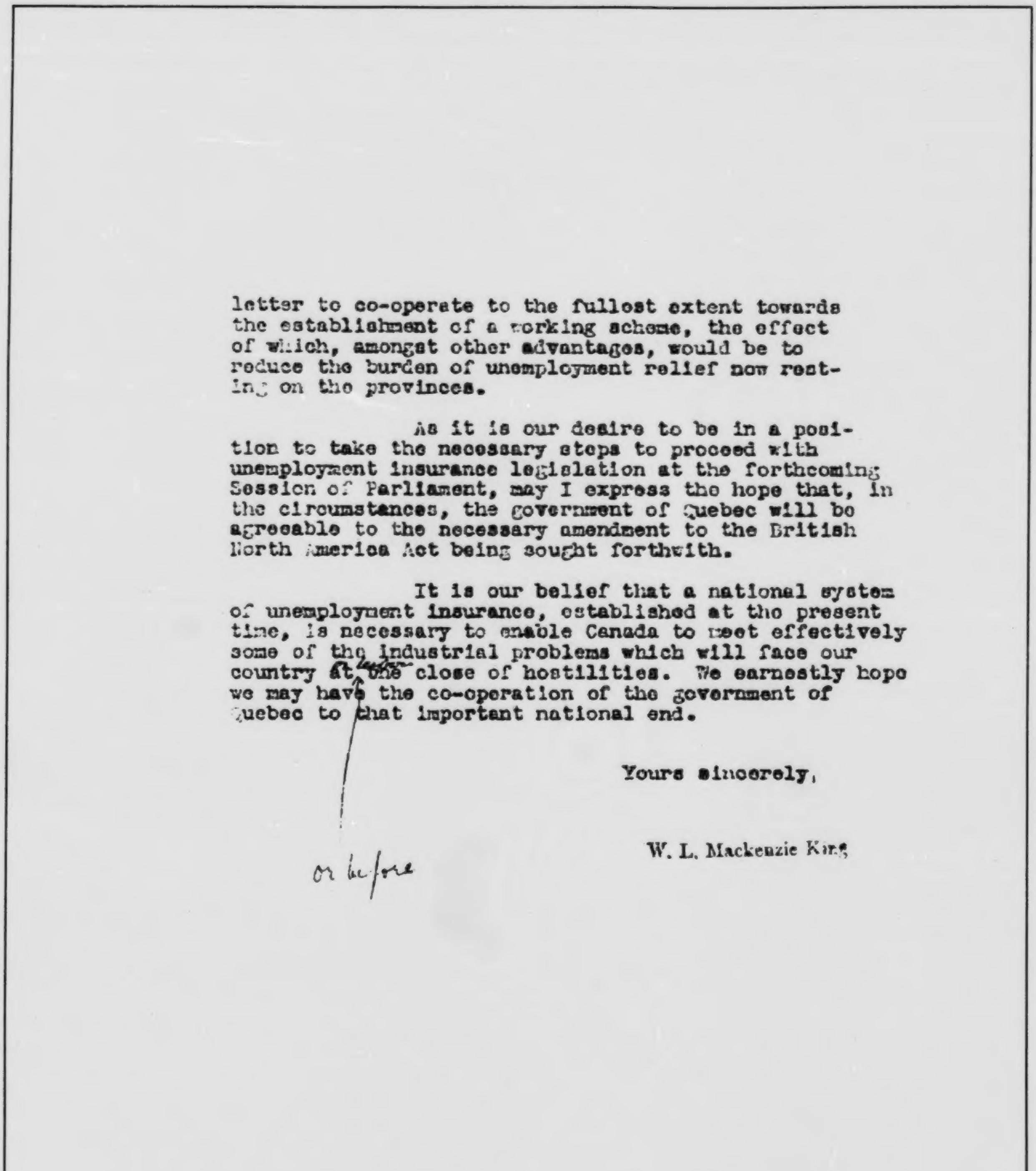
My dear Premier:

I wish to acknowledge your letter of February the 24th in reply to my letter of January the 16th, enquiring whether the government of Quebec would be agreeable to an amendment being made to the British North America Act, which would empower the Federal Parliament to enact unemployment insurance legislation on a national scale.

You enquire as to whether the Federal government adheres to the view that it would be impracticable to establish a national system of unemployment insurance by means of concurrent legislation. May I say in reply that the question has been considered carefully by the government's legal advisers. I have pleasure in enclosing, for your information, a copy of their opinion. You will observe that our legal advisers are of opinion that, even if it were possible by concurrent action to establish a national system of unemployment insurance, the validity of the legislation would be open to question, and the system itself unstable.

My colleagues and I adhere to the view that on both constitutional and practical grounds, until the legislative competence of the Federal Parliament to enact the legislation is established beyond qyestion, it would not be feasible to attempt to establish a national system of unemployment insurance.

May I say that my colleagues and I warmly appreciate your offer to give early consideration to the matter, and the willingness expressed in your



letter to co-operate to the fullest extent towards the establishment of a working scheme, the effect of which, amongst other advantages, would be to reduce the burden of unemployment relief now resting on the provinces.

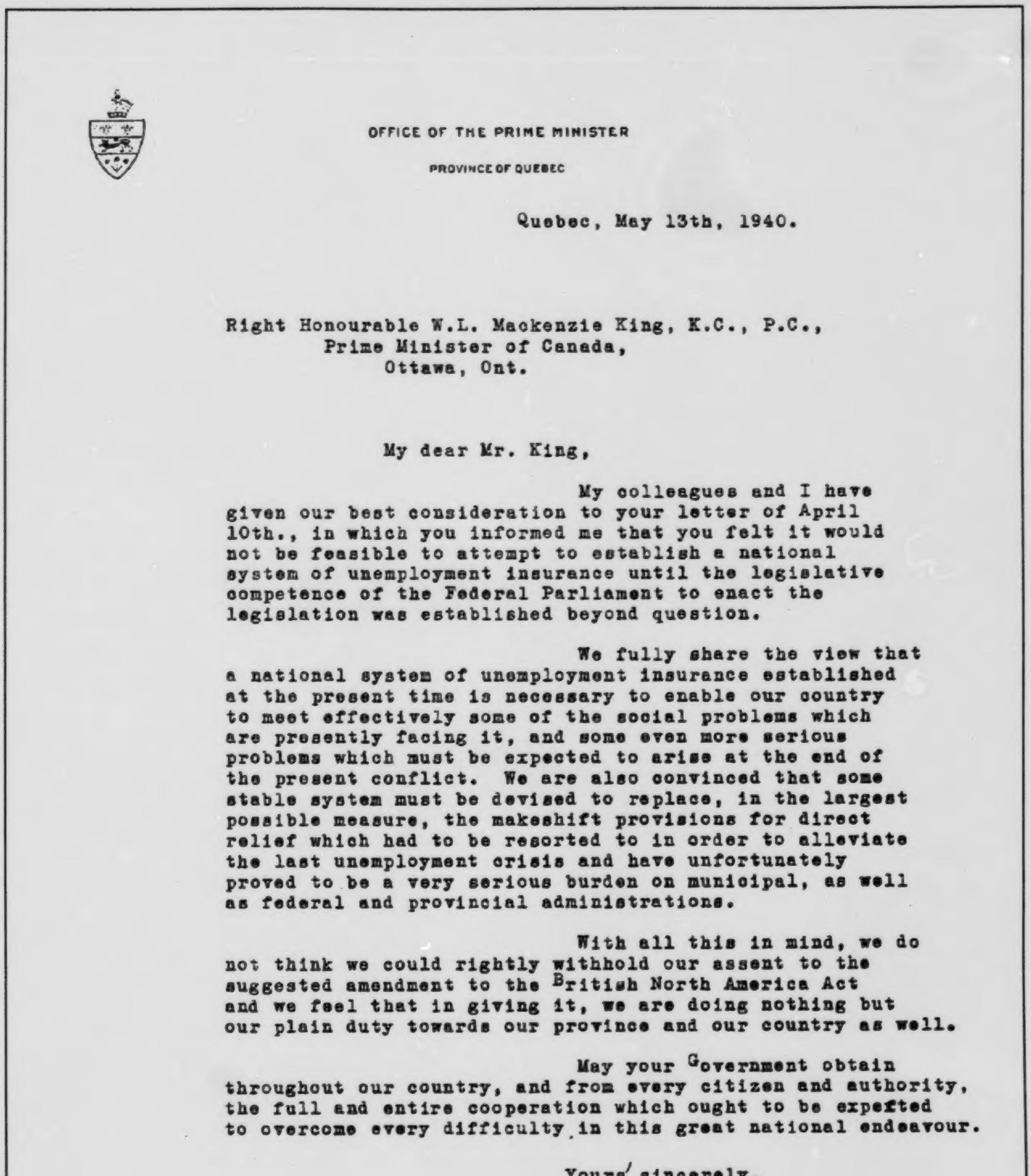
As it is our desire to be in a position to take the necessary steps to proceed with unemployment insurance legislation at the forthcoming Session of Parliament, may I express the hope that, in the circumstances, the government of Quebec will be agreeable to the necessary amendment to the British North America Act being sought forthwith.

It is our belief that a national system of unemployment insurance, established at the present time, is necessary to enable Canada to meet effectively some of the industrial problems which will face our country at the close of hostilities. We earnestly hope we may have the co-operation of the government of Quebec to that important national end.

Yours sincerely,

W. L. Mackenzie King

or before



OFFICE OF THE PRIME MINISTER
PROVINCE OF QUEBEC

Quebec, May 13th, 1940.

Right Honourable W.L. Mackenzie King, K.C., P.C.,
Prime Minister of Canada,
Ottawa, Ont.

My dear Mr. King,

My colleagues and I have given our best consideration to your letter of April 10th., in which you informed me that you felt it would not be feasible to attempt to establish a national system of unemployment insurance until the legislative competence of the Federal Parliament to enact the legislation was established beyond question.

We fully share the view that a national system of unemployment insurance established at the present time is necessary to enable our country to meet effectively some of the social problems which are presently facing it, and some even more serious problems which must be expected to arise at the end of the present conflict. We are also convinced that some stable system must be devised to replace, in the largest possible measure, the makeshift provisions for direct relief which had to be resorted to in order to alleviate the last unemployment crisis and have unfortunately proved to be a very serious burden on municipal, as well as federal and provincial administrations.

With all this in mind, we do not think we could rightly withhold our assent to the suggested amendment to the British North America Act and we feel that in giving it, we are doing nothing but our plain duty towards our province and our country as well.

May your Government obtain throughout our country, and from every citizen and authority, the full and entire cooperation which ought to be expefted to overcome every difficulty in this great national endeavour.

Yours sincerely,

1pl. Adelard Godbout.

DOCUMENT 2

The 1942 Tax Rental Agreement between the governments of Québec and Canada.

Convention entre le gouvernement du Dominion et celui de la Province de Québec

Convention conclue
ce 27 jour de Mai 1942.
entre:

Le gouvernement du Dominion du Canada (ci-après appelé "le Dominion"), ici représenté par l'Honorable James Lorimer Ilsley, ministre des Finances, partie de première part,

et,

Le gouvernement de la province de Québec (ci-après appelé "la province"), ici représenté par l'Honorable James Arthur Mathewson, trésorier de la province, partie de seconde part.

ATTENDU que le Dominion et la province de même que certaines municipalités de la province de Québec prélèvent certains impôts sur le revenu et sur les corporations, et

ATTENDU qu'il est opportun que, pendant la durée de la présente guerre et pendant une certaine période ultérieure de rajustement, seul le Dominion prélève de tels impôts, et

ATTENDU que la province, sous réserve des dispositions ci-après, consent à suspendre temporairement le prélèvement et la perception de tels impôts, et

ATTENDU qu'en s'engageant, comme il est ci-après stipulé, à ne pas imposer certains impôts pendant la durée de la présente convention, la province ne sera pas censée avoir cédé, abandonné ou transporté au Dominion aucun des pouvoirs, droits, privilèges, aucune partie de la souveraineté lui appartenant en vertu des dispositions de l'Acte de l'Amérique Britannique du Nord, 1867, ou de toute loi subséquente du Parlement du Royaume-Uni, ni avoir autrement amoindri ladite souveraineté ou l'un de ces pouvoirs, droits et privilèges, et

ATTENDU que le Parlement du Canada a voté les crédits nécessaires pour les paiements à faire à la province en vertu de la

Agreement between the Governments of the Dominion and of the Province of Quebec

Memorandum of agreement made
this 27 day of May, 1942.

Between:

The Government of the Dominion of Canada (hereinafter called "The Dominion"), represented herein by the Honourable James Lorimer Ilsley, Minister of Finance, of the First Part

and:

The Government of the Province of Quebec (hereinafter called "The Province"), represented herein by the Honourable James Arthur Mathewson, Provincial Treasurer, of the Second Part.

WHEREAS the Dominion and the Province and certain municipalities in Quebec have been levying taxes upon incomes and upon corporations, and

WHEREAS it is expedient during the continuation of the present war and for a certain re-adjustment period thereafter that the Dominion only should levy such taxes, and

WHEREAS the Province has agreed to suspend temporarily the levying and collection of such taxes, subject to the provisions hereinafter contained, and

WHEREAS the Province shall not, by agreeing, as hereinafter provided, to desist from imposing certain taxes during the term of this agreement, be deemed to have surrendered, abandoned or given over to the Dominion any of the powers, rights, privileges or authority vested in the Province under the provisions of The British North America Act, 1867, or any subsequent Act of the Parliament of the United Kingdom, or to have otherwise impaired any of such powers, rights, privileges or authority, and

WHEREAS the Parliament of Canada has provided funds for the payments which will be due to the Province under this agree-présente convention pendant l'année financière du Dominion qui a commencé le premier avril mil neuf cent quarante et un;

En conséquence il est par les présentes convenu:

1. Dans la présente convention et ses appendices, à moins que le contexte ne comporte un sens différent, l'expression,—

(*a*) "impôt sur les corporations" signifie une taxe ou un honoraire dont l'imposition, explicitement ou de fait, vise exclusivement, ou frappe d'un taux différentiel ou de charges plus onéreuses, les corporations, une ou plusieurs catégories de corporations ou une corporation donnée, mais ne comprend pas:

(*i*) un honoraire raisonnable de permis, d'enregistrement, de dépôt, ou autre, imposé de bonne foi par la province, pourvu que, sans l'approbation du ministre, aucun honoraire d'une catégorie nouvellement imposée après le 31 mars 1941, ne dépasse $250 par année pour chaque corporation, aucun honoraire de plus de $250 par année pour chaque corporation, exigé ou imposé le ou avant le 31 mars 1941, ne soit augmenté et aucun honoraire de moins de $250 par année pour chaque corporation, exigé ou imposé le ou avant le 31 mars 1941 ne soit porté à plus de $250 par année pour chaque corporation;

(*ii*) les honoraires exigés pour la constitution en corporation;

(*iii*) un honoraire de permis ou un autre honoraire ou une taxe pour des droits, privilèges ou franchises définis accordés par une municipalité, ou, s'ils ne doivent être exercés ou utilisés que dans un territoire non compris dans une municipalité, par tout organisme (y compris la province) ayant juridiction sur ce territoire;

(*iv*) une taxe d'affaires ou une taxe locative fixées d'après la surface de plancher, la valeur locative ou la valeur cotisée de certains

ment during the fiscal year of the Dominion which commenced April first, one thousand nine hundred and forty-one;

Now therefore this agreement witnesseth:

1. In this agreement or any appendix thereto, unless the context otherwise requires, the expression,—

(*a*) "corporation tax" means a tax or fee the imposing of which singles out for taxation or for discriminatory rates or burdens of taxation, either formally or in effect, corporations or any class or classes thereof or any individual corporation except

(*i*) a bona fide and reasonable provincial license, registration, filing or other fee, provided that, without the approval of the Minister, no fee of a class of fees first charged or imposed after March 31, 1941, shall exceed $250 per annum for each corporation and no fee charged or imposed on or prior to March 31, 1941, which is in excess of $250 per annum for each corporation shall be increased and no fee charged or imposed on or prior to March 31, 1941, which is less than $250 per annum for each corporation shall be increased to an amount in excess of $250 per annum for each corporation;

(*ii*) the fees charged for the incorporation of a company;

(*iii*) a license fee or other fee or tax for specific rights, benefits or franchises granted by a municipality or where they are to be exercised or enjoyed only in territory not included in any municipality by any authority (including the Province) having jurisdiction in such territory;

(*iv*) a business or occupancy tax based on floor space or on the rental or assessed value of property, or on gross receipts from biens, ou d'après les recettes brutes de la totalité ou d'une partie de l'exploitation ou d'après une autre base analogue, et imposées par une municipalité ou, dans un territoire non compris dans une municipalité, par tout organisme (y compris la province) ayant juridiction sur ce territoire;

Cependant tous les impôts prélevés en vertu des textes législatifs énumérés à l'appendice A et qui ne sont pas des impôts sur le revenu seront réputés impôts sur les corporations, et tous les impôts prélevés en vertu des textes législatifs énumérés à l'appendice B ne seront pas réputés impôts sur les corporations ni sur le revenu;

(*b*) "impôt sur le revenu" signifie tout impôt prélevé sur le revenu net d'une corporation ou sur le revenu net ou le revenu brut d'un individu ou d'une société et comprend une taxe personnelle ou capitation fixée d'après le revenu;

(*c*) "ministre" signifie le ministre des finances du Canada;

(*d*) "municipalité" comprend une cité, une ville, un village constitué en corporation, un canton, une municipalité rurale, un district d'amélioration locale, une commission scolaire et tout conseil, toute commission ou tout autre organisme établi par la province et qui impose ou a le droit d'imposer des taxes, honoraires de permis, redevances ou cotisations;

(*e*) "année mil neuf cent-quarante" signifie à l'égard de la province la période de douze mois terminée le trente juin 1941, et, à l'égard des municipalités, l'année financière de chacune terminée à la date la plus rapprochée du trente et un décembre 1940.

2. (1) La province s'engage à abroger, suspendre ou annuler ou à faire abroger, suspendre ou annuler jusqu'à l'expiration de la présente convention les textes législatifs qui sont énumérés à l'appendice A et en vertu desquels la province et ses municipa-

all or part of the business or other similar basis imposed by a municipality, or in territory not included in any municipality by any authority (including the Province) having jurisdiction in such territory;

Provided that all the taxes imposed by the enactments enumerated in Appendix A not being income taxes shall be deemed to be corporation taxes, and all the taxes imposed by the enactments enumerated in Appendix B shall be deemed not to be corporation taxes or income taxes;

(*b*) "income tax" means any tax imposed upon the net income of a corporation or upon the net income or gross income of an individual or partnership and shall include a poll or head tax based on income;

(*c*) "Minister" means the Minister of Finance of Canada;

(*d*) "municipality" includes a city, town, incorporated village, county, township, rural municipality, local improvement district, school district and any Board, Commission or other authority created by the Province, which levies or has the right to levy taxes, license fees, royalties or rates;

(*e*) "year one thousand nine hundred and forty" means for the Province the twelve month period ended June thirtieth 1941, and for municipalities the fiscal year of any municipality ending nearest to December thirty-first, 1940.

2. (1) The Province undertakes to repeal, suspend or nullify, or to have repealed, suspended or nullified until the termination of this agreement, the enactments pursuant to which income and corporation taxes are assessed and levied

lités imposent et prélèvent des impôts sur le revenu ou sur les corporations, et tous autres textes législatifs de la province de Québec, visant au prélèvement d'un impôt sur le revenu ou sur les corporations; elle s'engage aussi à édicter ou à faire édicter la législation requise pour la mettre en mesure d'exécuter et remplir les engagements qu'elle contracte par les présentes.

(2). Si l'on découvrait que des impôts sur le revenu ou sur les corporations sont imposés et perçus par lesdites municipalités en vertu de textes législatifs qui ne sont mentionnés ni à l'appendice A ni à l'appendice B, la province s'engage à abroger ou à suspendre ou à faire abroger ou suspendre ces textes jusqu'à l'expiration de la présente convention, et le Dominion convient d'augmenter le montant annuel payable à la province pendant la durée de la convention de la somme effectivement perçue par lesdites municipalités à titre de tels impôts sur le revenu ou sur les corporations pendant l'année mil neuf cent-quarante en vertu desdits textes qui ne sont mentionnés ni à l'appendice A ni à l'appendice B.

3. La province ou lesdites municipalités, selon le cas, percevront sur le revenu de l'année de calendrier 1940 et des années précédentes les impôts sur le revenu imposés en vertu des textes législatifs énumérés à l'appendice A, et tous arriérés de tels impôts, mais elles ne prélèveront pas d'impôts sur le revenu de l'année de calendrier 1941 et des années subséquentes pendant la durée de la présente convention.

4. Dans le cas d'un impôt sur le revenu d'un contribuable pendant un exercice financier se terminant au cours de l'année de calendrier 1941, la province percevra l'impôt en proportion du nombre de jours de cet exercice financier compris dans l'année de calendrier 1940 par rapport au nombre total de jours compris dans cet exercice financier, et l'impôt ne sera pas imposé ni perçu en proportion du nombre de jours de cet exercice financier compris dans l'année de calendrier 1941 par rapport au nombre total de jours compris dans cet exercice financier.

by the Province and the municipalities in Quebec which are enumerated in Appendix A, and any other enactments of Quebec providing for the imposition of an income tax or corporation tax, and to enact or have enacted such legislation as may be necessary to enable the Province to implement and carry out its part of this agreement.

(2) If it should be found that income and corporation taxes are levied and collected by the said municipalities in pursuance of enactments which are not shown in Appendix A or in Appendix B, the Province undertakes to repeal or suspend or to have repealed or suspended such enactments until the termination of this agreement, and the Dominion agrees to increase the amount payable to the Province for the term of the agreement by the amount of such income and corporation taxes actually collected by the said municipalities in the year one thousand nine hundred and forty under the said enactments which are not shown in Appendix A or in Appendix B.

3. The Province or the said municipalities, as the case may be, will collect the income taxes imposed by the enactments enumerated in Appendix A on income of the calendar year 1940 and prior years, and any arrears thereof, but will not levy taxes on income of the calendar year 1941, and subsequent years during the term of this agreement.

4. In the case of any tax on income of a fiscal period of a tax-payer ending in the calendar year 1941, the Province will collect that proportion of the tax which the number of days of such fiscal period in the calendar year 1940 bears to the total number of days of such fiscal period, and that proportion of the tax which the number of days of such fiscal period in the calendar year 1941 bears to the total number of days of such fiscal period shall not be levied or collected.

5. La province ou lesdites municipalités, selon le cas, rembourseront aux contribuables tous impôts déjà perçus ou qui le seront à l'avenir, sur le revenu de l'année de calendrier 1941, ou si l'exercice financier d'un contribuable se termine au cours de ladite année de calendrier, la province remboursera à ce contribuable une fraction de l'impôt global proportionnelle au nombre de jours de cet exercice financier compris dans cette année de calendrier par rapport au nombre total de jours compris dans cet exercice financier.

6. (1) La province ou lesdites municipalités, selon le cas, percevront les impôts sur les corporations, autres que l'impôt sur le revenu, qui sont devenus exigibles et payables le ou avant le premier septembre 1941 et qui sont imposés en vertu des textes législatifs énumérés à l'appendice A.

(2) La province ou lesdites municipalités, selon le cas, ne percevront pas lesdits impôts sur les corporations, autres que l'impôt sur le revenu, qui sont devenus exigibles et payables après le premier septembre 1941.

(3) La province ou lesdites municipalités, selon le cas, rembourseront aux contribuables le montant de tous impôts sur les corporations, autres que l'impôt sur le revenu, déjà payés ou qui le seront à l'avenir, et dont la perception par la province ou lesdites municipalités, selon le cas, est prohibée par les dispositions du paragraphe précédent du présent article.

7. La province prendra les mesures voulues pour empêcher lesdites municipalités d'imposer ou percevoir aucun impôt sur le revenu ou sur les corporations pendant la durée de la présente convention, sauf dans les cas prévus dans la présente convention.

8. (1) Aux fins du présent article, le mot "valeurs" signifie toutes hypothèques, toutes obligations, tous bons, toutes actions ou tous titres constituant la preuve d'un droit ou d'un intérêt dans le capital, l'actif, les profits, les gains ou les redevances de toute personne ou de toute compagnie.

5. The Province or the said municipalities, as the case may be, will refund to taxpayers any income taxes heretofore or hereafter collected on income of the calendar year 1941, or if any fiscal period of a taxpayer ends within such calendar year, the Province will refund to taxpayers that proportion of the total tax which the number of days of such fiscal period in such calendar year bears to the total number of days of such fiscal period.

6. (1) The Province or the said municipalities, as the case may be, will collect the corporation taxes, other than income tax, which became due and payable on or before September first, 1941, imposed by the enactments enumerated in Appendix A.

(2) The Province or the said municipalities, as the case may be, will not collect the corporation taxes other than income tax aforesaid which became due and payable after September first, 1941.

(3) The Province or the said municipalities, as the case may be, will refund to taxpayers the amount of any corporation taxes, other than income tax, heretofore or hereafter paid, the collection of which by the Province or the said municipalities, as the case may be, is prohibited by the terms of the next preceding sub-section of this section.

7. The Province will take whatever action may be necessary to ensure that the said municipalities shall not levy or collect any income or corporation taxes during the term of this agreement, except as provided in this agreement.

8. (1) For the purposes of this section, "security" means any mortgage, bond, debenture, stock, share or any document constituting evidence of title to or interest in the capital, assets, profits, earnings or royalties of any person or company.

(2) Sous réserve des dispositions du paragraphe suivant, la province, jusqu'à l'expiration de la présente convention,

(*a*) n'imposera aucun impôt sur le revenu ou n'adoptera aucune loi à cet effet,

(*b*) ne modifiera, ne rétablira ni rééditera aucun des textes législatifs énumérés à l'appendice A de manière à imposer un impôt sur le revenu ou sur les corporations pendant la durée de la présente convention,

(*c*) ne fera; ni ne permettra à aucune municipalité de faire quoi que ce soit pour lever aucun impôt sur des valeurs ou aucun autre impôt dont l'effet serait contraire à l'intention et à l'objet véritables de la présente convention, savoir: assurer au Dominion pendant la durée de la présente convention le domaine de l'impôt sur le revenu et de l'impôt sur les corporations.

(3) La province pourra cependant, sous réserve des dispositions de l'article vingt, adopter, pendant la durée de la présente convention, des lois pour prélever des impôts sur le revenu ou sur les corporations ou pour autoriser les municipalités à le faire, ces lois devant entrer en vigueur à l'expiration de la présente convention.

9. (1) La présente convention ne doit pas, nonobstant toute disposition y contenue, être interprétée comme un obstacle au droit de la province de prélever et recouvrer des impôts, des honoraires de permis et des redevances sur des ressources naturelles situées dans la province ou en rapport avec telles ressources, mais de tels impôts, honoraires de permis et redevances imposés après le vingt-quatre juin 1940 ou le montant dont ils auraient été augmentés après ladite date seront soumis aux dispositions de l'article 6 (*o*) de la Loi de l'impôt de guerre sur le revenu.

(2) Les impôts, honoraires de permis et redevances imposés en vertu des textes législatifs énumérés à l'appendice C de la présente convention seront réputés imposés sur les ressources naturelles ou en rapport avec elles.

(2) Subject as provided in the next succeeding sub-section the Province, will not until the termination of this agreement

(*a*) Impose or enact any statute providing for the imposition of income or corporation taxes, or

(*b*) Amend, revive or re-enact any of the enactments enumerated in Appendix A in such manner as will impose an income or corporation tax during the term of this agreement, or

(*c*) Take any action or permit any municipality to take any action to impose taxes on any security or any other tax which would have the effect of evading the true intent and purpose of this agreement, which is to secure the income and corporation tax fields to the Dominion during the term of this agreement.

(3) The Province, however, may subject to the provisions of section twenty, pass legislation during the term of this agreement to impose or authorize the municipalities to impose income and corporation taxes, such legislation to come into effect at the expiration of this agreement.

9. (1) Notwithstanding anything herein contained, this agreement shall not be construed as interfering with the right of the Province to levy and collect taxes, license fees and royalties upon or in respect of natural resources within the Province but any such taxes, license fees and royalties imposed after June twenty-fourth 1940, and increases in taxes, license fees and royalties after the said date will be subject to the provisions of section 6 (*o*) of the Income War Tax Act.

(2) Taxes, license fees and royalties imposed by the enactments enumerated in Appendix C to this agreement shall be deemed to be upon or in respect of natural resources.

10. Le Dominion paiera à la province pour chaque année financière provinciale comprise dans la durée de la convention, la somme de $20,586,074.56, calculée comme il est indiqué à l'appendice D, moins les déductions prévues aux articles onze et douze.

11. De cette somme de $20,586,074.56 payable par le Dominion chaque année selon les dispositions de l'article dix, sera déduit chaque fois qu'il y aura lieu en vertu des dispositions de l'article quatorze, le montant de tous impôts sur le revenu ou sur les corporations perçu par la province pendant la durée de la présente convention et le montant de tels impôts perçus par les municipalités de la province pendant les douze mois suivant le dernier jour de l'année mil neuf-cent-quarante en vertu des dispositions d'aucun des textes législatifs énumérés à l'appendice A, moins le montant de tels impôts ainsi perçus qui seraient ensuite remboursés au contribuable suivant les dispositions des articles cinq et six; cependant lorsque le total de ces déductions s'élèvera à $20,586,074.55, aucune nouvelle déduction ne sera faite.

12. La province aura droit de retenir, sur les impôts prélevés en vertu des textes législatifs énumérés à l'appendice A et perçus après le 31 mars 1942, un montant équivalent à dix pour cent de ces impôts, et tout montant ainsi retenu sera exclu dans le calcul de la déduction à être faite des paiements dus par le Dominion conformément aux dispositions de l'article 11; cependant les dispositions du présent article ne s'appliqueront pas aux impôts perçus par le Dominion comme agent de la province.

13. Dans les soixante jours qui suivront la date des présentes et dans les soixante jours qui suivront ensuite la fin de chacun des trimestres se terminant respectivement les trente juin, trente septembre, trente et un décembre et trente et un mars, la province soumettra au ministre un relevé, d'après un modèle convenu entre les parties, indiquant le montant à déduire en vertu des dispositions des articles onze et douze à raison d'impôts perçus par la province et lesdites municipalités pendant la période comprise dans ce relevé.

10. The Dominion will pay to the Province in respect of each fiscal year of the Province during the term of the agreement, the sum of $20,586,074.56 computed as set out in Appendix D less the deductions provided for in sections eleven and twelve.

11. From the sum of $20,586,074.56 payable by the Dominion each year under the provisions of section ten, there shall be deducted from time to time pursuant to the provisions of section fourteen, the amount of any income and corporation taxes collected by the Province during the term of this agreement and the amount of such taxes collected by its municipalities during the twelve months following the last day of the year one thousand nine hundred and forty, under the provisions of any of the enactments enumerated in Appendix A, less the amount of any such taxes so collected which are later refunded to the taxpayer pursuant to the provisions of sections five and six: Provided that after the cumulative total of all such deductions amounts to $20,586,074.56 no further deductions shall be made.

12. The Province shall be entitled to retain out of taxes imposed by the enactments enumerated in Appendix A and collected after March 31, 1942, an amount equivalent to ten per cent thereof and any amount so retained by the Province shall be excluded when computing the amount to be deducted from the payments by the Dominion under the provisions of section eleven: Provided, however, that the provisions of this section shall not apply to taxes collected by the Dominion as agent for the Province.

13. Within sixty days after the date of this agreement, and within sixty days after the close of each quarterly period thereafter ending June thirtieth, September thirtieth, December thirty-first and March thirty-first, respectively, the Province will submit to the Minister a statement in a form to be mutually agreed upon showing the amount to be deducted pursuant to the provisions of sections eleven and twelve in respect of any taxes collected by the Province and the said municipalities during the period covered by such state-

Ces relevés seront signés par le trésorier de la province ou par l'assistant-trésorier de la province et par l'auditeur de la province; mais quand le total des déductions prévues aux articles onze et douze aura atteint $20,586,074.56, la province ne sera plus requise de soumettre d'autres relevés au ministre en vertu du présent article.

14. (1) Le montant payable par le Dominion, d'après l'article dix sera payé, chaque année, à la province en versements trimestriels de la manière suivante: cinquante pour cent, le trente juin; trente pour cent, le trente septembre; dix pour cent, le trente et un décembre et dix pour cent, le trente et un mars.

(2) Nonobstant les dispositions du paragraphe (1), tous versements trimestriels, pour la période comprise entre le premier avril 1941 et la date des présentes, deviendront exigibles et payables dans un délai d'un mois de la réception par le ministre des relevés requis par l'article treize.

(3) Du total des versements trimestriels payables en vertu des dispositions du paragraphe (2), sera déduit, conformément aux dispositions des articles onze et douze, le montant de tous impôts perçus par la province du 31 mars 1941 au dernier jour des trimestres pour lesquels lesdits versements trimestriels sont payables et le montant de tous impôts perçus par lesdites municipalités du dernier jour de l'année mil neuf-cent-quarante au dernier jour des trimestres pour lesquels lesdits versements trimestriels sont payables.

(4) Sous réserve des dispositions du paragraphe cinq, nulle déduction ne sera faite du versement trimestriel pour le premier trimestre se terminant après la date des présentes. De chaque versement trimestriel subséquent, sera déduit, selon les dispositions des articles onze et douze, le montant des impôts perçus par la province et lesdites municipalités pendant le trimestre précédant immédiatement celui pour lequel ledit versement trimestriel est payable.

ment. These statements shall be signed by the Provincial Treasurer or Assistant Provincial Treasurer and by the Provincial Auditor: Provided that after the cumulative total of the deductions provided for in sections eleven and twelve amounts to $20,586,074.56 the Province will not be required to submit any further statements to the Minister under this section.

14. (1) The amount payable by the Dominion under section ten shall be paid to the Province in each year in quarterly instalments as follows: Fifty per cent of the total shall be paid on June thirtieth: thirty per cent of the total shall be paid on September thirtieth; ten per cent of the total shall be paid on December thirty-first; and ten per cent of the total shall be paid on March thirty-first.

(2) Notwithstanding the provisions of sub-section (1), any quarterly instalments which apply to the period from April 1, 1941, to the date of this agreement shall become due and payable within one month of the receipt by the Minister of the statements required under section thirteen.

(3) From the total of the quarterly instalments payable under the provisions of sub-section (2), there shall be deducted in accordance with the provisions of sections eleven and twelve, the amount of any taxes collected by the Province from March 31, 1941 to the last day of the quarterly periods for which the said quarterly instalments are payable and by the said municipalities from the last day of the year one thousand nine hundred and forty to the last day of the quarterly periods for which the said quarterly instalments are payable.

(4) Subject to the provisions of sub-section five no deduction shall be made from the quarterly instalment applicable to the first quarterly period ending after the date of this agreement. From each of the subsequent quarterly instalments there shall be deducted, in accordance with the provisions of sections eleven and twelve, the amount of the taxes collected by the Province and the said municipalities during the quarterly period immediately preceding the period for which the said quarterly instalment is payable.

(5) Si le montant à déduire pour un ou plusieurs trimestres dépasse le montant qui sans cela serait payable par le Dominion, le montant de l'excédent sera reporté et déduit du ou des paiements suivants qui sans cela seraient faits par le Dominion.

15. Dans un délai de trente jours de la date de l'expiration de la présente convention, selon les articles vingt et un et vingt-trois des présentes, le Dominion paiera à la province le montant total des déductions faites à diverses reprises en vertu des dispositions de la présente convention.

16. (1) Dans le présent article, les mots "recettes nettes de la taxe sur la gazoline" signifient les recettes totales, autres que les honoraires de permis, perçues par la province sur la vente de la gazoline en vertu des dispositions de la Loi de la gazoline, moins le montant des remboursements de cette taxe légalement effectués en vertu de ladite loi.

(2) Sous réserve des conditions ci-après, le Dominion convient de payer à la province pendant la durée de la présente convention à la fin de chaque année financière de la province, le montant jusqu'à concurrence duquel les recettes nettes de la taxe sur la gazoline au cours de cette année financière sont inférieures au montant des recettes nettes de la taxe sur la gazoline perçues pendant l'année mil neuf cent quarante, comme il est indiqué à l'appendice E.

(3) Si la province

(a) modifie la Loi de la gazoline ou les règlements faits en vertu de cette loi, ou

(b) manque d'administrer ladite loi et lesdits règlements avec la diligence et l'efficacité requises,

et si, de l'avis du ministre, le montant des recettes nettes de la taxe sur la gazoline pour une année quelconque est réduit à un montant inférieur à celui qui aurait été perçu sans cette modification ou sans ce manque de diligence et d'efficacité dans l'administration de ladite loi et desdits règlements, le Dominion pourra déduire

(5) If the amount to be deducted in respect of any quarterly period or periods exceeds the amount which would otherwise be payable by the Dominion, the amount of the excess shall be carried forward and deducted from the amount of the succeeding payment or payments which would otherwise be made by the Dominion.

15. Within thirty days from the date of the termination of this agreement, as provided for in sections twenty-one and twenty-three hereof, the Dominion will pay to the Province the total amount deducted from time to time under the provisions of this agreement.

16. (1) In this section "net receipts from the gasoline tax" means the total receipts, other than from license fees, collected by the Province on sale of gasoline under the provisions of the Gasoline Act reduced by the amount of the refunds of such tax lawfully made under the said Act.

(2) Subject to the conditions hereinafter contained the Dominion agrees to pay to the Province at the end of each fiscal year of the Province during the term of this agreement the amount by which the net receipts from the gasoline tax in such fiscal year is less than the amount of the net receipts from the gasoline taxes collected in the year one thousand nine hundred and forty, as set forth in Appendix E.

(3) If the Province

(a) amends the Gasoline Act or the regulations thereunder, or

(b) fails to exercise due diligence and efficiency in the administration of the said Act and regulations

the Dominion may, if in the opinion of the Minister the amount of the net receipts from the gasoline tax in any year is reduced below the amount which would have been realized but for such amendment, or but for such failure to exercise due diligence and efficiency in the administration of the said Act and regulations,

de la somme payable à la province pour une année quelconque en vertu du présent article, la perte de recettes nettes attribuable à cette modification ou à cedit manque de diligence et d'efficacité quand le montant de cette perte aura été équitablement et raisonnablement fixé de la façon ci-après prévue:

(4) Le ministre fera une estimation équitable et raisonnable de la perte susdite et le Dominion déduira le montant de cette estimation de la somme qui sans cela serait payable à la province en vertu du présent article, et si la province n'admet pas qu'il existe une telle perte ou que ladite estimation est équitable et raisonnable, le litige, y compris la détermination du montant de ladite perte s'il y en a, sera décidé par un comptable diplômé ou une autre personne compétente que les parties choisiront et dont la décision sera finale et obligatoire. Si les parties ne peuvent s'entendre sur le choix d'un comptable diplômé ou d'une autre personne compétente comme susdit, ledit litige, y compris la détermination du montant de ladite perte s'il y en a, sera décidé par un tribunal arbitral conformément à l'article vingt et un de la présente convention.

17. Après la fin de chaque année financière de la province, celle-ci s'engage à soumettre au ministre un relevé, d'après un modèle convenu entre les deux parties, signé par le trésorier de la province ou l'assistant-trésorier de la province et l'auditeur de la province établissant le montant que l'on prétend être payable par le Dominion en vertu des dispositions de l'article seize; le paiement sera dû un mois après le réception par le ministre dudit relevé; cependant si le ministre est convaincu que les recettes de la province provenant de la taxe sur la gazoline pour quelque trimestre pendant la durée de la présente convention sont substantiellement moindres que le montant des recettes de la province pendant le trimestre correspondant de l'année mil neuf cent quarante et que la province aura droit à un paiement en vertu de l'article seize de la présente convention, le Dominion pourra de temps en temps au cours de l'année financière de la province lui faire des avances à valoir sur les paiements prévus à l'article

deduct from the amount payable to the Province in any year under this section the loss in net receipts attributable to such amendment or to such failure to exercise due diligence and efficiency as aforesaid, the said loss having been fairly and reasonably determined as hereinafter provided.

(4) The Minister shall make a fair and reasonable estimate of the loss aforesaid, and the Dominion shall deduct the amount of such estimate from the amount which would otherwise be payable to the Province under this section, and if the Province does not agree that there is any such loss, or that the said estimate is fair and reasonable, the matter in dispute, including the amount of the said loss, if any, shall be determined by a qualified accountant or other suitable person selected by the parties hereto, whose decision shall be final and binding. If the parties are unable to agree upon the selection of a qualified accountant or other suitable person as aforesaid the said matter in dispute and the amount of the said loss, if any, shall be determined by an arbitral tribunal pursuant to section twenty-one hereof.

17. After the close of each fiscal year of the Province, the Province undertakes to submit to the Minister a statement in a form to be mutually agreed upon, signed by the Provincial Treasurer or Assistant Provincial Treasurer and by the Provincial Auditor, showing the amount claimed to be payable by the Dominion under the provisions of section sixteen; payment shall be due one month after the receipt by the Minister of the said statement; Provided that if the Minister is satisfied that the receipts by the Province from gasoline taxes in any quarterly period during the term of this agreement are substantially less than the amount of the receipts by the Province in the corresponding quarterly period in the year one thousand nine hundred and forty and that the Province will be entitled to payment under section sixteen hereof, the Dominion may from time to time during the fiscal year of the Province make advances to the Province on account of the payments provided for in section sixteen, and if any

seize, et si une de ces avances comporte un paiement en trop par le Dominion à la province, le Dominion pourra déduire le montant de ce paiement en trop de toute somme payable par le Dominion à la province en vertu de la présente convention.

18. La province mettra à la disposition du Dominion toutes les archives et tous les documents nécessaires et lui accordera des facilités raisonnables pour lui permettre d'établir les montants qui pourront être dus et payables par le Dominion en vertu de l'article seize de la présente convention.

19. La province mettra à la disposition du Dominion toutes les archives et tous les documents nécessaires de la province et desdites municipalités et lui accordera des facilités raisonnables pour lui permettre d'établir en tout temps le montant des déductions prévues à l'article onze.

20. (1) Le Dominion aura seul le droit de prélever des impôts sur le revenu des individus et des corporations pour l'année de calendrier se terminant le trente et un du mois de décembre le plus rapproché de la date de l'expiration de la présente convention et s'engage à réduire les taux de ces impôts sur le revenu des individus et des corporations pour l'année de calendrier suivante, d'un montant qui permettra à la province de pénétrer de nouveau dans le domaine de l'impôt sur le revenu et de l'impôt sur les corporations, et le Dominion s'engage spécialement à réduire son taux d'impôt sur le revenu des corporations d'au moins dix pour cent de ces revenus.

(2) La province convient de ne pas prélever ni percevoir d'impôts sur les corporations,—autres que des impôts sur le revenu—, devenant exigibles et payables le ou avant le premier septembre de l'année suivant le trente et un décembre le plus rapproché de la date de l'expiration de la présente convention.

(3) Les dispositions du présent article ne s'appliqueront pas si la province met fin à la présente convention avant la fin des hostilités conformément aux dispositions du paragraphe 5 de l'article vingt-trois des présentes ou si le Dominion met fin à la présente convention conformément

such advance results in an overpayment by the Dominion to the Province, the Dominion may deduct the amount of such overpayment from any sum or sums payable by the Dominion to the Province under this agreement.

18. The Province will make available to the Dominion all necessary records and documents and afford reasonable facilities to permit the Dominion to establish the amounts which may be due and payable by the Dominion under section sixteen of this agreement.

19. The Province will make available to the Dominion all necessary records and documents of the Province and the said municipalities and afford reasonable facilities to permit the Dominion to establish from time to time the amount of the deductions provided for in section eleven.

20. (1) The Dominion shall have the sole right to levy taxes on personal and corporation incomes of the calendar year ending on the thirty-first day of December nearest to the date of the termination of this agreement, and with respect to personal and corporation incomes in the following calendar year undertakes to reduce its rates of taxes by such an amount as will enable the Province again to use the income tax and corporation tax fields, and in particular the Dominion undertakes to reduce its rate of tax on corporation incomes by at least ten per cent of such incomes.

(2) The Province agrees that it will not levy or collect corporation taxes other than income taxes which become due and payable on or before September first in the year following the thirty-first day of December nearest to the date of the termination of this agreement.

(3) The provisions of this section shall not be operative if the Province terminates this agreement before the cessation of hostilities in accordance with the provisions of sub-section (5) of section twenty-three hereof, or if the Dominion terminates this agreement in accordance

aux dispositions du paragraphe 3 de l'article vingt et un des présentes.

21. (1) Si les parties aux présentes ne s'entendent pas sur l'interprétation d'une des dispositions de la présente convention ou sur toute affaire qui en découle, chacune aura le droit de soumettre le litige à un tribunal arbitral constitué conformément à l'article vingt-deux des présentes.

(2) Si de l'avis du Dominion, la province ou une desdites municipalités impose ou perçoit quelque impôt contrairement à l'une des dispositions de la présente convention ou manque autrement de s'y conformer, le Dominion peut soumettre le litige à un tribunal arbitral.

(3) Si le tribunal arbitral décide que la province ou une desdites municipalités a contrevenu aux dispositions de la présente convention ou a manqué de s'y conformer, la province fera promptement le nécessaire pour corriger sa situation et, si de l'avis du tribunal arbitral, elle manque de le faire, le Dominion pourra mettre fin à la convention ou pourra déduire le montant de tout impôt ainsi imposé ou perçu de toute somme payable à la province en vertu de la présente convention.

(4) Si, de l'avis de la province, le Dominion manque de se conformer à une des dispositions de la présente convention, la province pourra soumettre le litige à un tribunal arbitral.

(5) Si le tribunal arbitral décide que le Dominion a contrevenu aux dispositions de la présente convention ou a manqué de s'y conformer, le Dominion corrigera rapidement sa situation et si, de l'avis du tribunal arbitral, il manque de le faire, la province pourra mettre fin à la convention sans délai.

22. (1) Chaque tribunal arbitral se composera de trois membres dont l'un sera choisi par le gouvernement du Canada, l'un par le gouvernement de Québec et le troisième par les deux autres. S'ils ne peuvent s'entendre, le troisième membre du tribunal sera choisi par le Juge-en-chef du Canada.

(2) Les parties aux présentes conviennent de faciliter la constitution et le fonctionnement des tribunaux arbitraux, de fournir promptement les renseignements

with the provisions of sub-section (3) of section twenty-one hereof.

21. (1) If the parties hereto fail to agree on the interpretation of any of the provisions of this agreement or on any matter arising therefrom either party shall have the right to refer the matter in dispute to an arbitral tribunal constituted in accordance with section twenty-two hereof.

(2) If in the opinion of the Dominion the Province, or any of the said municipalities, imposes or collects any tax in contravention or otherwise fails to observe, any of the provisions of this agreement, the Dominion may refer the matter in dispute to an arbitral tribunal.

(3) If the arbitral tribunal decides that the Province, or any of the said municipalities, has contravened or failed to observe the provisions of this agreement, the Province will promptly take such action as may be necessary to rectify its position and if in the opinion of the arbitral tribunal it fails to do so, the Dominion may terminate the agreement or may deduct the amount of any tax so imposed or collected from any sum or sums payable to the Province under this agreement.

(4) If in the opinion of the Province the Dominion fails to observe any of the provisions of this agreement, the Province may refer the matter in dispute to an arbitral tribunal.

(5) If the arbitral tribunal decides that the Dominion has contravened or failed to observe the provisions of this agreement, the Dominion will promptly rectify its position and if in the opinion of the arbitral tribunal it fails to do so, the Province may terminate the agreement forthwith.

22. (1) Each arbitral tribunal shall consist of three members of which one member shall be selected by the Government of Canada, one by the Government of Quebec, and the third member by the other two members. If they fail to agree, the third member of the tribunal shall be chosen by the Chief Justice of Canada.

(2) The parties hereto agree to facilitate the constitution and functioning of arbitral tribunals; to supply promptly such information as may be required by such

qui seront requis par ces tribunaux et d'accepter leurs conclusions et leurs décisions comme finales et obligatoires à leur égard.

(3) Les conclusions de deux membres quelconques du tribunal qui sont du même avis, seront les conclusions du tribunal, et si plus d'une affaire est soumise en même temps au tribunal cette règle s'appliquera pour chaque affaire.

(4) La procédure de tout arbitrage fait en vertu des dispositions de la présente convention sera arrêtée par le tribunal arbitral.

(5) Les dépenses de tout tribunal arbitral, constitué en vertu des dispositions de la présente convention, seront payables par le Dominion.

23. (1) La présente convention restera en vigueur jusqu'au dernier jour de l'année financière de la province se terminant à la date la plus rapprochée du trente et un décembre de l'année de calendrier qui commencera après la date de la cessation totale ou substantiellement complète des hostilités, entre le Dominion du Canada et l'Allemagne, l'Italie et le Japon; à moins qu'elle n'ait été plus tôt résiliée, en vertu des dispositions des présentes.

(2) Le Dominion, considérant au meilleur de son jugement tous les faits connus, fixera impartialement la date de la cessation totale ou substantiellement complète des hostilités et en donnera aussitôt avis à la province, spécifiant la date ainsi fixée laquelle sera dès lors réputée, aux fins de la présente convention, la date de la cessation totale ou substantiellement complète des hostilités entre le Dominion du Canada et l'Allemagne, l'Italie et le Japon.

(3) Si en aucun temps, avant que cet avis n'ait été donné, la province est d'avis que lesdites hostilités ont cessé, totalement ou substantiellement, elle pourra demander au Dominion de convoquer une conférence des provinces et du Dominion dans le but de considérer ensemble si lesdites hostilités ont réellement cessé totalement ou substantiellement et, dans l'affirmative, à quelle date. Sur réception d'une telle demande, le Dominion convoquera immédiatement une telle conférence et il donnera ensuite l'avis susmentionné au moment et pour la date qu'il croira convenables.

tribunals; and to accept the findings and decisions of such tribunals as final and binding upon them.

(3) The findings of any two members of the tribunal in agreement shall constitute the findings of the tribunal and should more than one item be referred to the tribunal at any one time this rule shall apply with respect to each item.

(4) The procedure in any arbitration under the provisions of this agreement shall be determined by the arbitral tribunal.

(5) The expenses of any arbitral tribunal constituted under the provisions of this agreement shall be payable by the Dominion.

23. (1) This agreement shall continue in force until and terminate on the last day of the fiscal year of the Province ending nearest to the thirty-first day of December in the first calendar year which begins after the date of the cessation of hostilities, complete or substantial, between the Dominion of Canada and Germany, Italy and Japan, unless sooner terminated pursuant to the provisions hereof.

(2) The Dominion shall, exercising its best judgment on all the available facts, fairly determine the date of such cessation of hostilities, complete or substantial, and shall thereupon give notice to the Province, specifying such date so determined, which shall thereafter, for the purposes of this agreement, be deemed to be the date of the cessation of hostilities, complete or substantial, between the Dominion of Canada and Germany, Italy and Japan.

(3) If at any time, no such notice having been given, the Province is of the opinion that the aforesaid hostilities have ceased, completely or substantially, the Province may request the Dominion to call a conference of the Provinces and the Dominion for the purpose of consulting together as to whether the aforesaid hostilities have in fact ceased, completely or substantially and, if so, on what date. Upon receipt of such request, the Dominion will forthwith call such conference and will thereafter give the notice hereinbefore provided for at such time and specifying

en tenant compte des vues exprimées à ladite conférence et de l'obligation qu'il a de considérer au meilleur de son jugement tous les faits connus, de fixer impartialement la date de la cessation totale ou substantiellement complète des hostilités et d'en donner avis à la province.

(4) De toute manière, cette cessation des hostilités aux fins de la présente convention, ne sera pas censée avoir eu lieu plus tard que la date d'une proclamation émise par Sa Majesté ou sous l'autorité du Gouverneur en conseil d'après l'article 2 de la Loi des mesures de guerre, attestant que la guerre a cessé.

(5) La province peut mettre fin à la présente convention le trente et un mars de toute année en donnant avis par écrit au ministre de son intention de ce faire trente jours avant ladite date.

24. L'expression "durée de la présente convention", chaque fois qu'elle se rencontre dans la présente convention, signifie la période qui s'écoulera du premier avril 1941, ce jour compris, jusqu'à l'expiration de la présente convention.

EN FOI DE QUOI l'honorable James Lorimer Ilsley, ministre des finances, a apposé sa signature et son sceau à la présente convention au nom du Dominion du Canada et l'honorable James Arthur Mathewson, trésorier de la province a apposé sa signature et son sceau à la présente convention au nom de la province de Québec.

such date as the Dominion deems proper having regard to the views expressed at the said conference and to the obligation of the Dominion to exercise its best judgment on all the available facts and fairly to determine the date of the cessation of hostilities, complete or substantial, and to notify the Province thereof.

(4) In any event, such cessation of hostilities shall not for the purposes of this agreement, be deemed to have taken place later than the date of proclamation issued by His Majesty or under the authority of the Governor in council, pursuant to section 2 of the War Measures Act, declaring that the war no longer exists.

(5) The Province may terminate this agreement on the thirty-first day of March of any year, if notice of intention to do so is given in writing to the Minister thirty days before such date.

24. The expression "term of this agreement", wherever it appears in this agreement means the period from and including April first 1941 to the termination of this agreement.

IN WITNESS WHEREOF the Honourable James Lorimer Ilsley, Minister of Finance, has hereunto set his hand and seal on behalf of the Dominion of Canada, and the Honourable James Arthur Mathewson, Provincial Treasurer, has hereunto set his hand and seal on behalf of the Province of Quebec.

Signé au nom du gouvernement du Canada par l'honorable James Lorimer Ilsley, ministre des finances, en présence de

Signed on behalf of the Government of Canada by the Honourable James Lorimer Ilsley, Minister of Finance, in the presence of

J. Ross Tolmie "J. L. Ilsley"

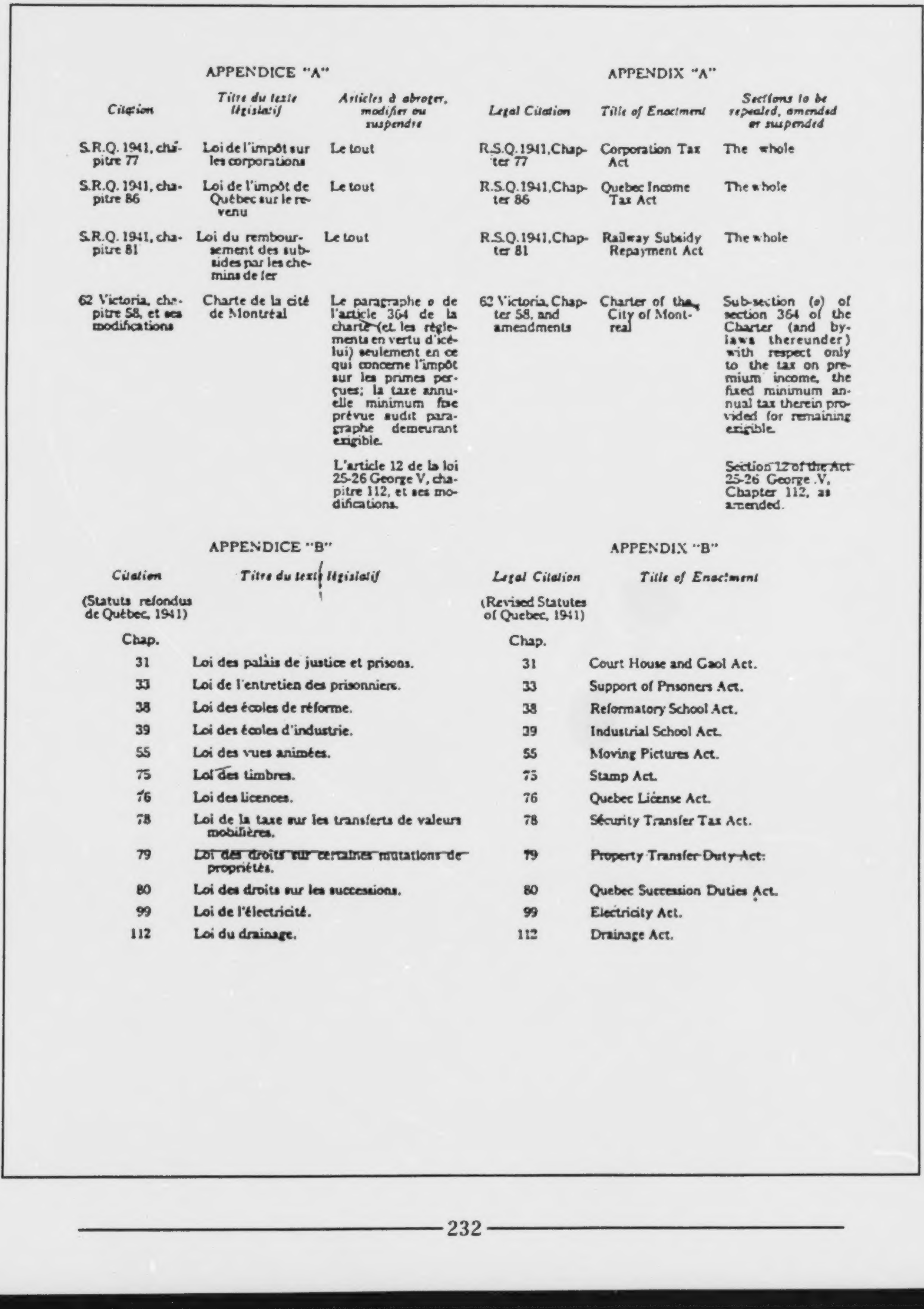
Ministre des finances. ~~*Minister of Finance.*~~

Signé au nom du gouvernement de la province de Québec par l'honorable James Arthur Mathewson, trésorier de la province, en présence de

Signed on behalf of the Government of the Province of Quebec by the Honourable James Arthur Mathewson, Provincial Treasurer, in the presence of

M. Bieler

J. Arthur Mathewson



APPENDICE "A"

Citation	*Titre du texte législatif*	*Articles à abroger, modifier ou suspendre*
S.R.Q. 1941, chapitre 77	Loi de l'impôt sur les corporations	Le tout
S.R.Q. 1941, chapitre 86	Loi de l'impôt de Québec sur le revenu	Le tout
S.R.Q. 1941, chapitre 81	Loi du remboursement des subsides par les chemins de fer	Le tout
62 Victoria, chapitre 58, et ses modifications	Charte de la cité de Montréal	Le paragraphe o de l'article 364 de la charte (et les règlements en vertu d'icelui) seulement en ce qui concerne l'impôt sur les primes perçues; la taxe annuelle minimum fixe prévue audit paragraphe demeurant exigible. L'article 12 de la loi 25-26 George V, chapitre 112, et ses modifications.

APPENDIX "A"

Legal Citation	*Title of Enactment*	*Sections to be repealed, amended or suspended*
R.S.Q. 1941, Chapter 77	Corporation Tax Act	The whole
R.S.Q. 1941, Chapter 86	Quebec Income Tax Act	The whole
R.S.Q. 1941, Chapter 81	Railway Subsidy Repayment Act	The whole
62 Victoria, Chapter 58, and amendments	Charter of the City of Montreal	Sub-section (o) of section 364 of the Charter (and by-laws thereunder) with respect only to the tax on premium income, the fixed minimum annual tax therein provided for remaining exigible. Section ~~12 of the Act~~ 25-26 George V, Chapter 112, as amended.

APPENDICE "B"

Citation (Statuts refondus de Québec, 1941) Chap.	*Titre du texte législatif*
31	Loi des palais de justice et prisons.
33	Loi de l'entretien des prisonniers.
38	Loi des écoles de réforme.
39	Loi des écoles d'industrie.
55	Loi des vues animées.
75	Loi des timbres.
76	Loi des licences.
78	Loi de la taxe sur les transferts de valeurs mobilières.
79	~~Loi des droits sur certaines mutations de~~ propriétés.
80	Loi des droits sur les successions.
99	Loi de l'électricité.
112	Loi du drainage.

APPENDIX "B"

Legal Citation (Revised Statutes of Quebec, 1941) Chap.	*Title of Enactment*
31	Court House and Gaol Act.
33	Support of Prisoners Act.
38	Reformatory School Act.
39	Industrial School Act.
55	Moving Pictures Act.
75	Stamp Act.
76	Quebec License Act.
78	Security Transfer Tax Act.
79	~~Property Transfer Duty Act.~~
80	Quebec Succession Duties Act.
99	Electricity Act.
112	Drainage Act.

APPENDICE "B"—*Suite*

APPENDIX "B"—*Cont'd*

Citation	*Titre du texte législatif*	*Legal Citation*	*Title of Enactment*
ts refondus) Québec, 1941)		(Revised Statutes of Quebec, 1941)	
Chap.		Chap.	
142	Loi des véhicules automobiles.	142	Motor Vehicles Act.
143	Loi des transports et communications.	143	Transportation and Communication Act.
150	Loi des enquêtes sur les incendies.	150	Fire Investigations Act.
151	Loi de la prévention des incendies.	151	Fire Prevention Act.
160	Loi des accidents du travail.	160	Workmen's Compensation Act.
163	Loi de la convention collective.	163	Collective Agreement Act.
164	Loi du salaire minimum.	164	Minimum Wage Act.
172	Loi concernant les électriciens et les installations électriques.	172	Electricians and Electrical Installation Act.
177	Loi des appareils sous pression.	177	Pressure Vessels Act.
184	Loi des unités sanitaires.	184	Health Units Act.
187	Loi de l'assistance publique de Québec.	187	Quebec Public Charities Act.
188	Loi des asiles d'aliénés.	188	Lunatic Asylums Act.
207	Loi de la Commission municipale de Québec.	207	Quebec Municipal Commission Act.
216	Loi des comptes municipaux.	216	Municipal Accounts Act.
217	Loi des dettes et des emprunts municipaux.	217	Municipal Debt and Loan Act.
253	Loi instituant le Conseil provincial des sports.	253	An Act to Create the Provincial Sport Council.
255	Loi des liqueurs alcooliques.	255	Alcoholic Liquor Act.
281	Loi des renseignements sur les compagnies.	281	Companies Information Act.
282	Loi des valeurs mobilières.	282	Securities Act.
283	Loi des acquisitions et aliénations d'immeubles par les corporations et les gens de mainmorte.	283	Mortmain Act.
284	Loi des compagnies de fidéicommis.	284	Trust Companies Act.
299	Loi des assurances de Québec.	299	Quebec Insurance Act.
319	Loi des bureaux d'enregistrement.	319	Registry Office Act.

et, à moins qu'il ne soit mentionné à l'appendice "A", tout autre texte législatif de la province prévoyant l'imposition par une municipalité d'impôts ou d'honoraires de permis autres que des impôts sur le revenu, dans la mesure où des impôts ou des honoraires de permis étaient imposés en vertu de tel texte le premier avril 1941.

and, to the extent that taxes or license fees were imposed thereunder on April 1st, 1941, any other enactment of the Province providing for the imposition by a municipality of taxes or license fees other than income taxes, unless such enactment is enumerated in Appendix "A".

APPENDICE "C"

Citation	*Titre du texte législatif*
(Statuts refondus de Québec, 1941, à moins d'indication contraire)	
90	Loi pourvoyant à la création d'un fonds éducationnel à même les ressources naturelles de la province.
93	Loi des terres et forêts.
98	Loi du régime des eaux courantes.
153	Loi de la chasse.
154	Loi de la pêche.
196	Loi des mines de Québec.
25-26 Geo. V, c. 22.	Loi pour assurer la protection des ressources forestières de la province.

APPENDICE "D"

SUBVENTION REMPLAÇANT LES IMPÔTS SUSPENDUS

(Revenus que la province et ses municipalités ont effectivement obtenus dans le domaine de l'impôt sur le revenu et de l'impôt sur les corporations pendant les douze mois se terminant le 30 juin 1941.)

Revenus provinciaux—	
Loi de l'impôt sur les corporations	$15,713,113.45
Loi de l'impôt de Québec sur le revenu	2,469,387.87
Loi du remboursement des subsides par les chemins de fer	7,097.34
	$18,189,598.66
Revenus municipaux (1)	
Charte de la cité de Montréal—	
Impôt sur les revenus individuels	2,377,577.64
Impôt sur primes d'assurance-incendie	18,898.26
Montant total payable	$20,586,074.56

(1) Sous réserve d'ajustement selon le paragraphe 2 de l'article 2.

APPENDICE "E"

Recettes nettes de la taxe imposée sur la vente de la gazoline pendant les douze mois se terminant le 30 juin 1941

Recettes brutes de la taxe sur la gazoline.	$12,575,635.85
Moins remboursements.	772,387.72
Recettes nettes	$11,803,248.13

APPENDIX "C"

Legal Citation	*Title of Enactment*
(1941 Revised Statutes of Quebec unless another indication is given)	
90	An Act to provide for the Creation of an Education Fund from the Natural Resources of the Province.
93	Lands and Forests Act.
98	Water-Course Act.
153	Game Laws.
154	Quebec Fisheries Act.
196	Quebec Mining Act.
25-26-Geo. V, c. 22.	An Act to assure the protection of the forest resources of the Province.

APPENDIX "D"

GRANT IN LIEU OF TAXES SUSPENDED

(The revenues which the province and its municipalities actually obtained from the income tax and corporation tax fields during the twelve months ended June, 30, 1941)

Provincial Revenues	
Corporation Tax Act............	$15,713,113.45
Quebec Income Tax Act.........	2,469,387.87
Railway Subsidy Repayment Act	7,097.34
	$18,189,598.66
Municipal revenues (1)	
Charter of the City of Montreal—	
Personal income taxes	2,377,577.64
Taxes on Fire Insurance premiums	18,898.26
TOTAL AMOUNT PAYABLE	$20,586,074.56

(1) Subject to adjustment per subsection (2) of section 2.

APPENDIX "E"

Net receipts from the tax imposed on the sale of gazoline during the twelve months ended June 30, 1941—

Gross gazoline tax receipts	$12,575,635.85
Less refunds	772,387.72
Net receipts	$11,803,248.13

DOCUMENT 3

Preliminary brief on the Constitution presented by the Québec government at the Federal-Provincial Conference held in Ottawa from January 10 to 12, 1950 (as reproduced in the proceedings of the Conference).

PROVINCE OF QUEBEC

Preliminary Memorandum by the Government of the Province of Quebec re the Canadian Intergovernmental Conference Which Opened in Ottawa on January 10, 1950

The matters submitted for the consideration of the delegates at this very important Conference include numerous problems which require very careful study.

The Province of Quebec is deeply convinced that we should have an essentially Canadian Constitution, made in Canada, by Canadians, for the Canadian people.

Our Province considers that the Canadian Constitution should be completely freed from all remaining traces of colonialism, both in the field of international relations and in the domain of Canadian intergovernmental relations.

In our opinion, the only appropriate and just system of government is one recognizing to the Provincial State and to the Federal State, each in its own respective sphere, all the powers which are indispensable for the carrying on of a responsible and democratic government, and this, both from the legislative and administrative standpoint, and also from the financial or fiscal point of view.

We feel certain that the complete acknowledgment of the bi-racial character of our country and of the essential rights of each one of the parties constituting the Canadian Federation, constitute the indispensable basis of real Canadian unity.

We are deeply convinced that constitutional stability and the clear and precise delimitation of provincial and federal rights are absolutely necessary to ensure genuine progress and well understood national unity in Canada.

In order to avoid the uncertainties and the hazards involved by legislation, which is at all times subject to amendments, we believe that the Canadian Constitution should be embodied in a treaty or convention.

Furthermore, logically and in all fairness, the Canadian Constitution should be drawn up in the two official languages: the English language and the French language.

We sincerely believe that these fundamental principles should guide us in our work.

We reaffirm our sincere desire to co-operate, in a friendly spirit, in preparing and drawing up an essentially Canadian Constitution, respectful of the rights of all parties concerned.

At this stage of the Conference we think that we should limit ourselves to general considerations. In the light of the discussion and of the exchanges of views which will take place between us, it will be advisable to determine, more precisely and in fuller detail, the most just and appropriate methods of achieving the fundamental aims outlined above.

I—*Powers of the Federal Authorities*

These powers relate to matters concerning:

The Governor General;

The Executive Council;

The prerogatives, immunities, indemnities of the Senators and the deliberations of the Senate;

The prerogatives, immunities, indemnities of the members of the House of Commons, and the deliberations of the said House;

The appointment of the Speakers of the Senate and of the House of Commons;

International relations;

International trade;

Taxation and borrowing powers, in federal matters, clearly defined and adapted to the federative system;

The postal service;

The federal civil service;

Currency and coinage;

Incorporation of banks and the issue of paper money;

Navigation and public harbours;

Patents of invention;

Lands reserved for the Indians;

Bankruptcy, without encroaching upon the sphere of the Civil Code of the Province of Quebec;

Canadian Citizenship;

Naturalization;

The Criminal law and the procedure in criminal matters except the constitution of Courts of criminal jurisdiction;

The Exchequer Court;

The Admiralty Court.

II—*Powers of the Provincial Authorities*

These powers relate to matters concerning:

The Lieutenant Governor;

The Provincial Executive Council;

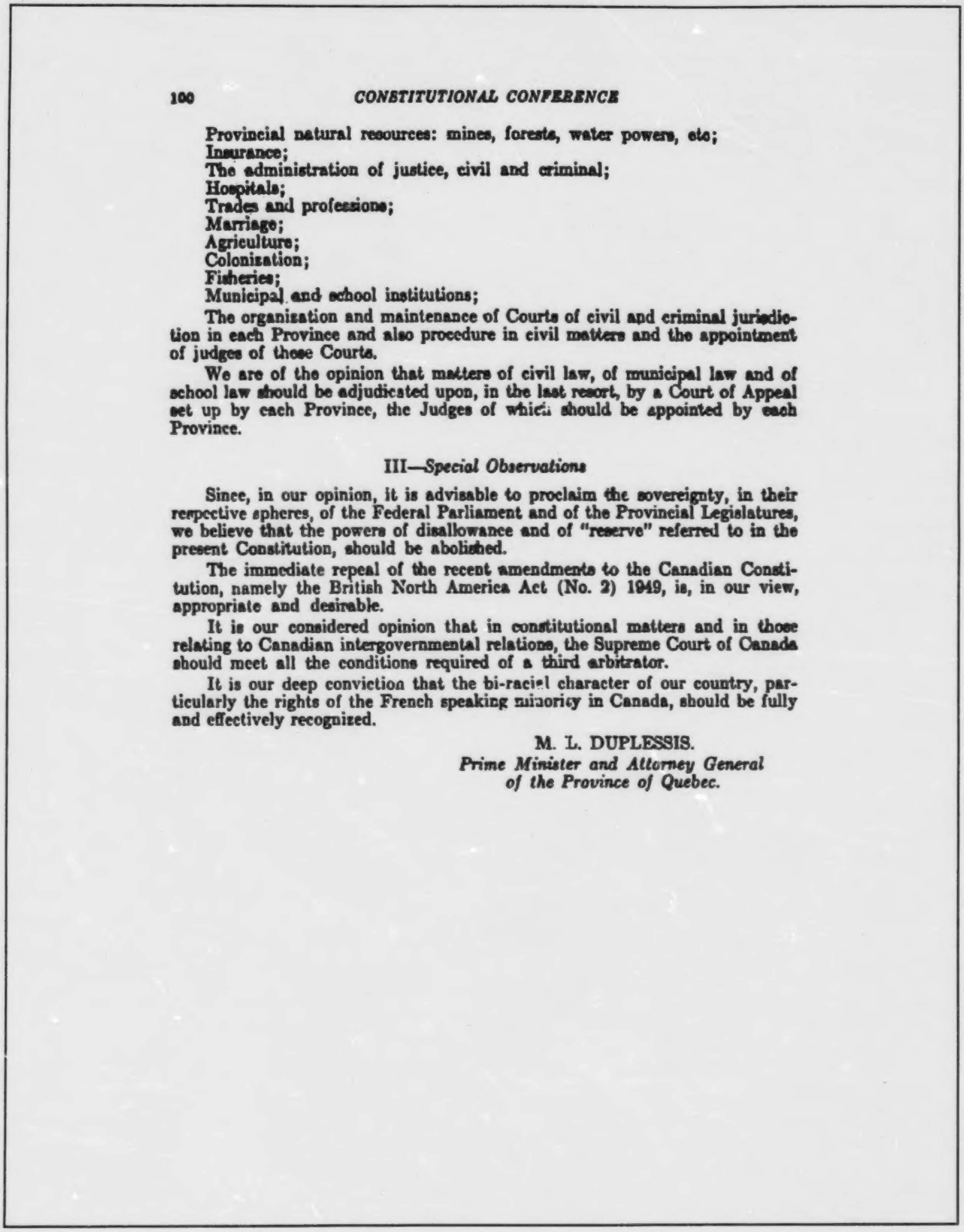
The Legislature;

Education;

Property rights and civil law;

Taxation and borrowing powers in provincial matters, clearly defined;

The provincial civil service;



Provincial natural resources: mines, forests, water powers, etc;
Insurance;
The administration of justice, civil and criminal;
Hospitals;
Trades and professions;
Marriage;
Agriculture;
Colonization;
Fisheries;
Municipal and school institutions;

The organization and maintenance of Courts of civil and criminal jurisdiction in each Province and also procedure in civil matters and the appointment of judges of these Courts.

We are of the opinion that matters of civil law, of municipal law and of school law should be adjudicated upon, in the last resort, by a Court of Appeal set up by each Province, the Judges of which should be appointed by each Province.

III—*Special Observations*

Since, in our opinion, it is advisable to proclaim the sovereignty, in their respective spheres, of the Federal Parliament and of the Provincial Legislatures, we believe that the powers of disallowance and of "reserve" referred to in the present Constitution, should be abolished.

The immediate repeal of the recent amendments to the Canadian Constitution, namely the British North America Act (No. 2) 1949, is, in our view, appropriate and desirable.

It is our considered opinion that in constitutional matters and in those relating to Canadian intergovernmental relations, the Supreme Court of Canada should meet all the conditions required of a third arbitrator.

It is our deep conviction that the bi-racial character of our country, particularly the rights of the French speaking minority in Canada, should be fully and effectively recognized.

M. L. DUPLESSIS.
Prime Minister and Attorney General
of the Province of Quebec.

DOCUMENT 4

Documents on the Constitutional amendment, 1951 (pensions for the aged and the blind): An Act to improve pensions for the aged and the blind (Assented to March 7, 1951), a letter from Maurice Duplessis, Prime Minister of Québec, April 18, 1951 and a telegram from the federal Minister of Justice, Stuart S. Garson, May 4, 1951 (correspondence taken from the Debates of the House of Commons).

CHAPITRE 9

Loi pour améliorer les pensions des vieillards et des aveugles

[*Sanctionnée le 7 mars 1951*]

SA MAJESTÉ, de l'avis et du consentement du Conseil législatif et de l'Assemblée législative de Québec, décrète ce qui suit:

Ententes autorisées.

1. Afin d'assurer des pensions justes et raisonnables aux vieillards et aux aveugles de la province et d'en faire bénéficier, quant aux vieillards, les personnes âgées de soixante-et-cinq ans ou plus, le gouvernement est autorisé à conclure avec le gouvernement du Canada toute entente qui sera conforme aux droits et aux meilleurs intérêts de la province et qui facilitera, à ce sujet, la coopération entre les autorités fédérales et les autorités provinciales de Québec.

Consentement à amendement.

2. En ce qui concerne seulement l'établissement et le paiement de ces pensions, le gouvernement de la province est autorisé à consentir à un amendement constitutionnel bien défini qui permettra et facilitera l'établissement et le paiement de ces pensions sur des bases justes et en coopération avec les autorités fédérales.

Dépôt.

3. Une copie de tout arrêté en conseil adopté en vertu de la présente loi sera déposée en Chambre, dès son adoption, si la Législature est alors en session, sinon, dans les quinze premiers jours de la prochaine session.

CHAPTER 9

An Act to improve pensions for the aged and the blind

[*Assented to, the 7th of March, 1951*]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

Agreements authorized.

1. In order to ensure fair and adequate pensions for the aged and the blind of the Province, and, as regards the aged, to enable persons sixty-five years of age or older to benefit thereby, the Government is authorized to make with the Government of Canada any agreement which is consistent with the rights and best interests of the Province and which facilitates co-operation in that respect between the federal authorities and the Quebec provincial authorities.

Consent to amendment.

2. With respect solely to the establishment and payment of such pensions, the Government of the Province is authorized to consent to a well-defined constitutional amendment which will permit and facilitate the establishment and payment of such pensions on a fair basis and in co-operation with the Federal authorities.

Deposit.

3. A copy of every order in council made under this act shall be deposited in the House, upon its adoption if the Legislature is then in session, if not, within the first fifteen days of the next session.

45

Dépenses.

4. Les dépenses occasionnées au gouvernement de la province par l'exécution de toute entente conclue en vertu de la présente loi seront payées à même le fonds consolidé du revenu.

Entrée en vigueur. Durée.

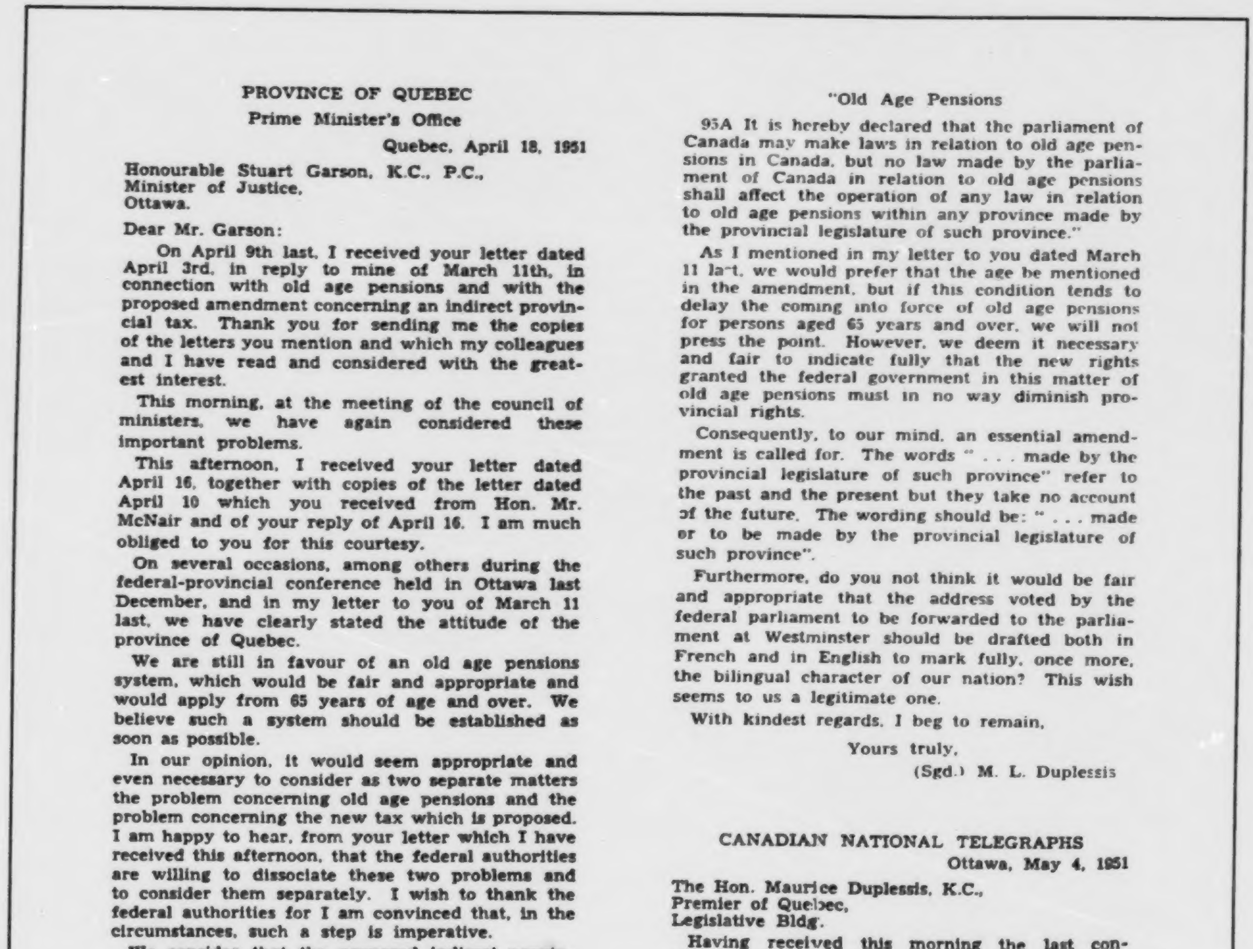
5. La présente loi entrera en vigueur le jour de sa sanction mais ne demeurera en force que pendant une période de douze mois après sa sanction.

Expenses.

4. The expenses incurred by the Government of the Province for the carrying out of any agreement entered into under this act shall be paid out of the consolidated revenue fund.

Coming into force. Duration.

5. This act shall come into force on the day of its sanction but shall remain in effect only for a period of twelve months after its sanction.



PROVINCE OF QUEBEC
Prime Minister's Office

Quebec, April 18, 1951

Honourable Stuart Garson, K.C., P.C.,
Minister of Justice,
Ottawa.

Dear Mr. Garson:

On April 9th last, I received your letter dated April 3rd, in reply to mine of March 11th, in connection with old age pensions and with the proposed amendment concerning an indirect provincial tax. Thank you for sending me the copies of the letters you mention and which my colleagues and I have read and considered with the greatest interest.

This morning, at the meeting of the council of ministers, we have again considered these important problems.

This afternoon, I received your letter dated April 16, together with copies of the letter dated April 10 which you received from Hon. Mr. McNair and of your reply of April 16. I am much obliged to you for this courtesy.

On several occasions, among others during the federal-provincial conference held in Ottawa last December, and in my letter to you of March 11 last, we have clearly stated the attitude of the province of Quebec.

We are still in favour of an old age pensions system, which would be fair and appropriate and would apply from 65 years of age and over. We believe such a system should be established as soon as possible.

In our opinion, it would seem appropriate and even necessary to consider as two separate matters the problem concerning old age pensions and the problem concerning the new tax which is proposed. I am happy to hear, from your letter which I have received this afternoon, that the federal authorities are willing to dissociate these two problems and to consider them separately. I wish to thank the federal authorities for I am convinced that, in the circumstances, such a step is imperative.

We consider that the proposed indirect provincial sales tax does not meet the situation and would complicate rather than assist in the settlement of the important problem of old age pensions. Such a result should be avoided.

Serious doubts exist as to the timeliness of this new tax and we feel that clearness and precision are always desirable in constitutional matters.

We still favour the establishment of an old age pension for persons 65 years of age and over, and we are willing to accept a clear and precise constitutional amendment giving the federal government a power it does not possess presently, that is to make laws in this matter, without however infringing upon provincial rights.

The latest amendment suggested by you reads as follows:

"Old Age Pensions

95A It is hereby declared that the parliament of Canada may make laws in relation to old age pensions in Canada, but no law made by the parliament of Canada in relation to old age pensions shall affect the operation of any law in relation to old age pensions within any province made by the provincial legislature of such province."

As I mentioned in my letter to you dated March 11 last, we would prefer that the age be mentioned in the amendment, but if this condition tends to delay the coming into force of old age pensions for persons aged 65 years and over, we will not press the point. However, we deem it necessary and fair to indicate fully that the new rights granted the federal government in this matter of old age pensions must in no way diminish provincial rights.

Consequently, to our mind, an essential amendment is called for. The words " . . . made by the provincial legislature of such province" refer to the past and the present but they take no account of the future. The wording should be: " . . . made or to be made by the provincial legislature of such province".

Furthermore, do you not think it would be fair and appropriate that the address voted by the federal parliament to be forwarded to the parliament at Westminster should be drafted both in French and in English to mark fully, once more, the bilingual character of our nation? This wish seems to us a legitimate one.

With kindest regards, I beg to remain,

Yours truly,

(Sgd.) M. L. Duplessis

CANADIAN NATIONAL TELEGRAPHS

Ottawa, May 4, 1951

The Hon. Maurice Duplessis, K.C.,
Premier of Quebec,
Legislative Bldg.

Having received this morning the last concurrence of a provincial government to reach me that the wording of the new section 94A to be added to the British North America Act to empower the federal parliament to make laws in relation to old age pensions in Canada should be as follows:

"Old Age Pensions

94A. It is hereby declared that the parliament of Canada may from time to time make laws in relation to old age pensions in Canada but no law made by the parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a provincial legislature in relation to old age pensions."

I now hasten to confirm the tentative agreement upon this wording which I reached with you in our telephone conversation of May 1 last. Now that we have secured the concurrence of all the provincial premiers to this wording we are proceeding without delay with the introduction in the House of Commons of a joint address to be approved by that body and the Senate of Canada requesting the parliament at Westminster to amend the British North America Act by adding to it a new section 94A in the terms above noted. For the purpose of the record might I ask you at your earliest possible convenience to send me a telegram confirming your approval of the wording of this constitutional amendment.

Stuart S. Garson

DOCUMENT 5

An Act to institute a royal commission of inquiry on constitutional problems (Assented to February 12, 1953).

CHAPITRE 4

Loi instituant une commission royale d'enquête sur les problèmes constitutionnels

[*Sanctionnée le 12 février 1953*]

Préambule. ATTENDU que la confédération canadienne, née d'une entente entre les quatre provinces pionnières, est d'abord et surtout un pacte d'honneur entre les deux grandes races qui ont présidé à sa fondation et dont chacune apporte une précieuse et indispensable contribution au progrès et à la grandeur de la nation;

Attendu que la constitution de 1867 reconnaît aux provinces, à la province de Québec en particulier, des droits, prérogatives et libertés dont le respect intégral est intimement lié à l'unité nationale et à la survivance de la confédération, et leur assigne des responsabilités et des obligations qui impliquent corrélativement les moyens d'action nécessaires;

Attendu que la province de Québec entend exercer ces droits et remplir ces obligations et que, pour ce faire, elle doit sauvegarder les ressources fiscales qui lui appartiennent et conserver son indépendance financière aussi bien que son autonomie législative et administrative;

Attendu que, depuis 1917, le pouvoir central a envahi d'importants domaines de taxation réservés aux provinces et, par là, limité sérieusement la possibilité pour les provinces d'exercer leurs droits fiscaux dans ces domaines;

Attendu que ces empiètements privent les provinces, notamment le Québec, de sources de revenus qui leur appartiennent et leur sont nécessaires, les restreignent dans l'exercice des droits et des pouvoirs

CHAPTER 4

An Act to institute a royal commission of inquiry on constitutional problems

[*Assented to, the 12th of February, 1953*]

WHEREAS the Canadian confederation, born of an agreement between the four pioneer provinces, is first and above all a pact of honour between the two great races which founded it and each of which makes a most valuable and indispensable contribution to the progress and greatness of the nation; Preamble

Whereas the constitution of 1867 grants to the provinces, and to the Province of Quebec in particular, rights, prerogatives and liberties scrupulous respect for which is intimately bound up with national unity and the survival of confederation, and it imposes on them responsibilities and obligations which imply correlatively the necessary corresponding means of action;

Whereas the Province of Quebec intends to exercise and discharge these rights and obligations, to which end it must safeguard the fiscal resources which belong to it and preserve its financial independence as well as its legislative and administrative autonomy;

Whereas, since 1917, the central power has invaded important fields of taxation reserved to the provinces, thereby seriously limiting the ability of the provinces to exercise their fiscal rights in those fields;

Whereas these encroachments deprive the provinces, Quebec in particular, of sources of revenues which belong and are necessary to them, restrict them in the exercise of the legislative and administra-

législatifs et administratifs qui leur sont reconnus par la constitution, faussent l'application du pacte confédératif et en menacent l'existence par l'étiolement des provinces et une centralisation de pouvoirs inconciliable avec le système fédératif et démocratique;

Attendu qu'une telle centralisation ne peut conduire qu'au régime bureaucratique et à la disparition graduelle du gouvernement responsable;

Attendu que, dans un pays aussi vaste et aussi diversifié que le Canada, seule une administration décentralisée peut répondre aux besoins de chaque région et assurer le développement harmonieux de l'ensemble;

Attendu que le respect des droits de toutes les parties constituantes de la confédération est essentiel à sa survie et à l'avenir de la nation canadienne;

Attendu que les institutions municipales et scolaires, qui sont des émanations des provinces et des formes démocratiques de décentralisation administrative, ont droit à leur juste part du revenu national et qu'elles ne peuvent l'obtenir que sous un régime de décentralisation fiscale;

Attendu qu'il y a lieu de confier à une commission royale l'étude des problèmes d'importance vitale résultant de cette situation et des mesures à prendre pour les résoudre;

A ces causes, Sa Majesté, de l'avis et du consentement du Conseil législatif et de l'Assemblée législative de Québec, décrète ce qui suit:

Commission royale.

1. Le lieutenant-gouverneur en conseil est autorisé à constituer une commission royale pour enquêter sur les problèmes constitutionnels, lui faire rapport de ses constatations et opinions et lui soumettre ses recommandations quant aux mesures à prendre pour la sauvegarde des droits de la province, des municipalités et des corporations scolaires.

Devoirs.

2. Sans restreindre la portée de l'article précédent, cette commission étudiera spécialement

a) le problème de la répartition des impôts entre le pouvoir central, les provinces, les municipalités et les corporations scolaires;

tive rights and powers recognized as theirs by the constitution, pervert the application of the confederation pact and endanger its existence by the impoverishment of the provinces and a centralization of powers incompatible with the federal and democratic system;

Whereas such centralization can only lead to bureaucracy and the gradual disappearance of responsible government;

Whereas, in a country as vast and diverse as Canada, only a decentralized administration can meet the needs of every region and ensure the harmonious development of the whole;

Whereas respect for the rights of all the component parts of the federation is essential to its survival and to the future of the Canadian nation;

Whereas municipal and educational institutions, which emanated from the provinces and are democratic forms of administrative decentralization, are entitled to their fair share of the national revenue which they can only obtain under a decentralized fiscal regime;

Whereas it is expedient to refer to a royal commission the study of the vitally important problems resulting from this situation and the steps to be taken to solve them;

Therefore, Her Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

Royal commission.

1. The Lieutenant-Governor in Council may constitute a royal commission to inquire into constitutional problems, report its findings to him and submit to him its recommendations as to steps to be taken to safeguard the rights of the Province and those of municipalities and school corporations.

Duties.

2. Without restricting the scope of the preceding section, such commission shall study in particular

a. the problem of the distribution of taxes between the central power, the provinces, municipalities and school corporations;

b) les empiétements du pouvoir central dans le domaine de la taxation directe, en particulier, mais sans restreindre la portée de la présente disposition, en matières d'impôt sur le revenu, sur les corporations et sur les successions;

c) les répercussions et les conséquences de ces empiétements dans le régime législatif et administratif de la province et dans la vie collective, familiale et individuelle de sa population;

d) généralement les problèmes constitutionnels d'ordre législatif et fiscal.

Nominations, etc.

3. Les membres de cette commission sont nommés par le lieutenant-gouverneur en conseil, qui désigne parmi eux un président, peut leur adjoindre les officiers, juristes et autres spécialistes dont il juge les services nécessaires et fixe le traitement de chacun d'eux.

Rapport.

La commission doit, dès sa formation, procéder à cette enquête, la compléter avec toute la diligence possible, faire rapport au lieutenant-gouverneur en conseil le ou avant le premier mars 1954 et lui remettre en même temps toute la documentation recueillie au cours de son enquête.

Séances.

4. A cette fin, la commission peut siéger, en séances publiques, à tout endroit de la province où elle le juge à propos, entendre des experts, des représentants de corps publics ou privés et d'autres témoins, recevoir des rapports et se procurer par les moyens qu'elle estime convenables toute documentation et toute information qu'elle juge utiles.

Dépenses.

5. Les dépenses occasionnées par l'application de la présente loi, y compris les traitements des membres de la commission, des officiers, juristes et autres spécialistes, sont payés à même le fonds consolidé du revenu.

Entrée en vigueur.

6. La présente loi entrera en vigueur le jour de sa sanction.

b. encroachments by the central power in the field of direct taxation, especially, but without restricting the scope of this provision, in matters of income and corporation taxes and succession duties;

c. the repercussions and results of such encroachments in the legislative and administrative regime of the Province and in the collective, domestic and individual life of its people;

d. constitutional problems of a legislative and financial nature in general.

Appointments, etc.

3. The members of such commission shall be appointed by the Lieutenant-Governor in Council who shall designate one of them as chairman and may provide them with any officers, jurists and other specialists whose services he considers necessary and fix the remuneration of each.

Report.

As soon as it is formed, the commission shall proceed with such inquiry, complete it with all possible diligence, report to the Lieutenant-Governor in Council on or before the 1st of March 1954 and at the same time deliver to him all the documentary matter accumulated in the course of its inquiry.

Sittings.

4. For such purpose the commission may sit, in public, at any place in the Province which it deems suitable, hear experts, representatives of public or private bodies and other witnesses, receive reports and procure by such means as it deems suitable any documentary and other information which it considers useful.

Expenses.

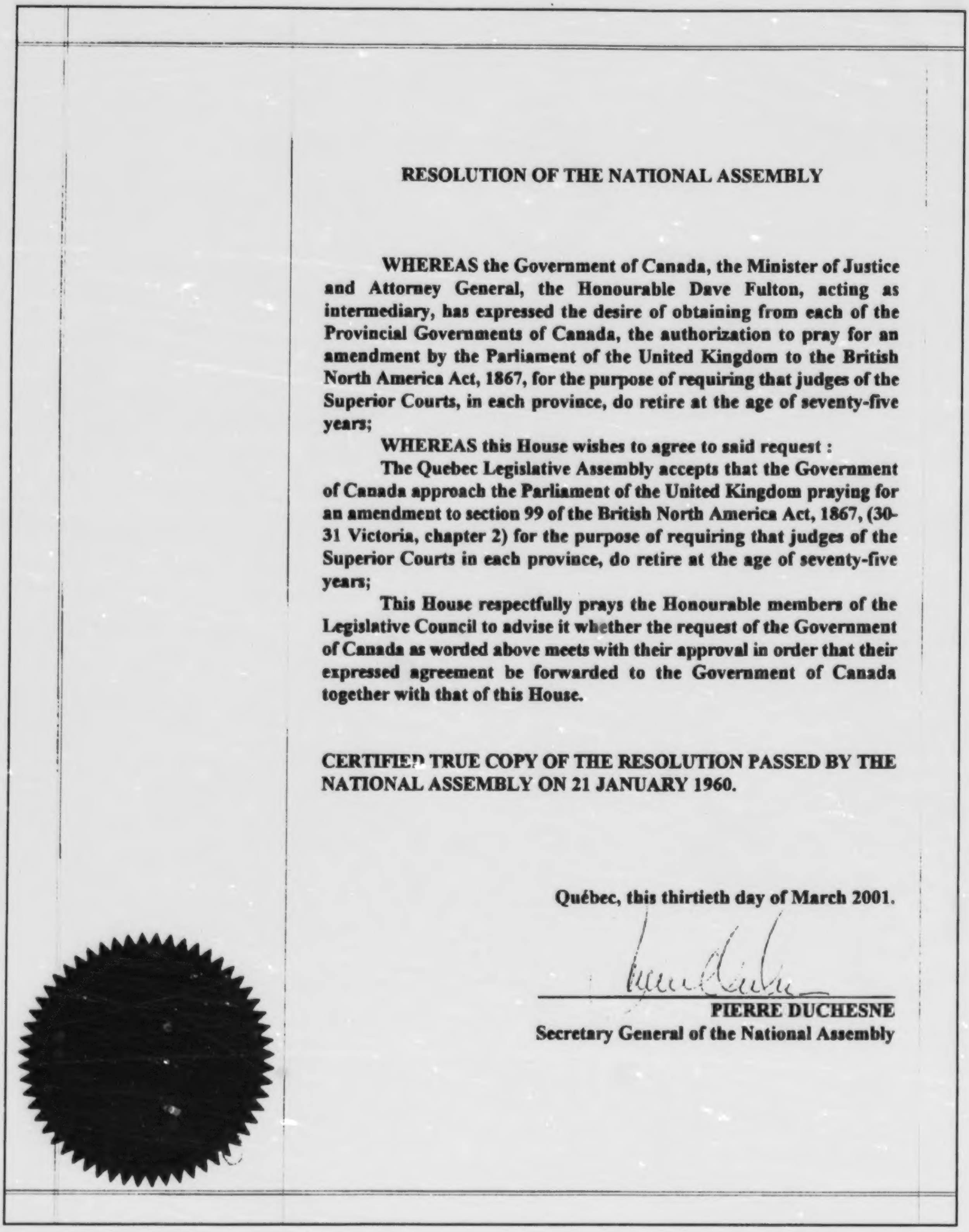
5. The expenses incurred by the application of this act, including the remuneration of the members of the commission, officers, jurists and other specialists, shall be paid out of the consolidated revenue fund.

Coming into force.

6. This act shall come into force on the day of its sanction.

DOCUMENT 6

Resolution of the Québec Legislative Assembly authorizing the 1960 Constitutional amendment (compulsory retirement of superior court judges upon reaching the age of seventy-five), January 21, 1960.



RESOLUTION OF THE NATIONAL ASSEMBLY

WHEREAS the Government of Canada, the Minister of Justice and Attorney General, the Honourable Dave Fulton, acting as intermediary, has expressed the desire of obtaining from each of the Provincial Governments of Canada, the authorization to pray for an amendment by the Parliament of the United Kingdom to the British North America Act, 1867, for the purpose of requiring that judges of the Superior Courts, in each province, do retire at the age of seventy-five years;

WHEREAS this House wishes to agree to said request :

The Quebec Legislative Assembly accepts that the Government of Canada approach the Parliament of the United Kingdom praying for an amendment to section 99 of the British North America Act, 1867, (30-31 Victoria, chapter 2) for the purpose of requiring that judges of the Superior Courts in each province, do retire at the age of seventy-five years;

This House respectfully prays the Honourable members of the Legislative Council to advise it whether the request of the Government of Canada as worded above meets with their approval in order that their expressed agreement be forwarded to the Government of Canada together with that of this House.

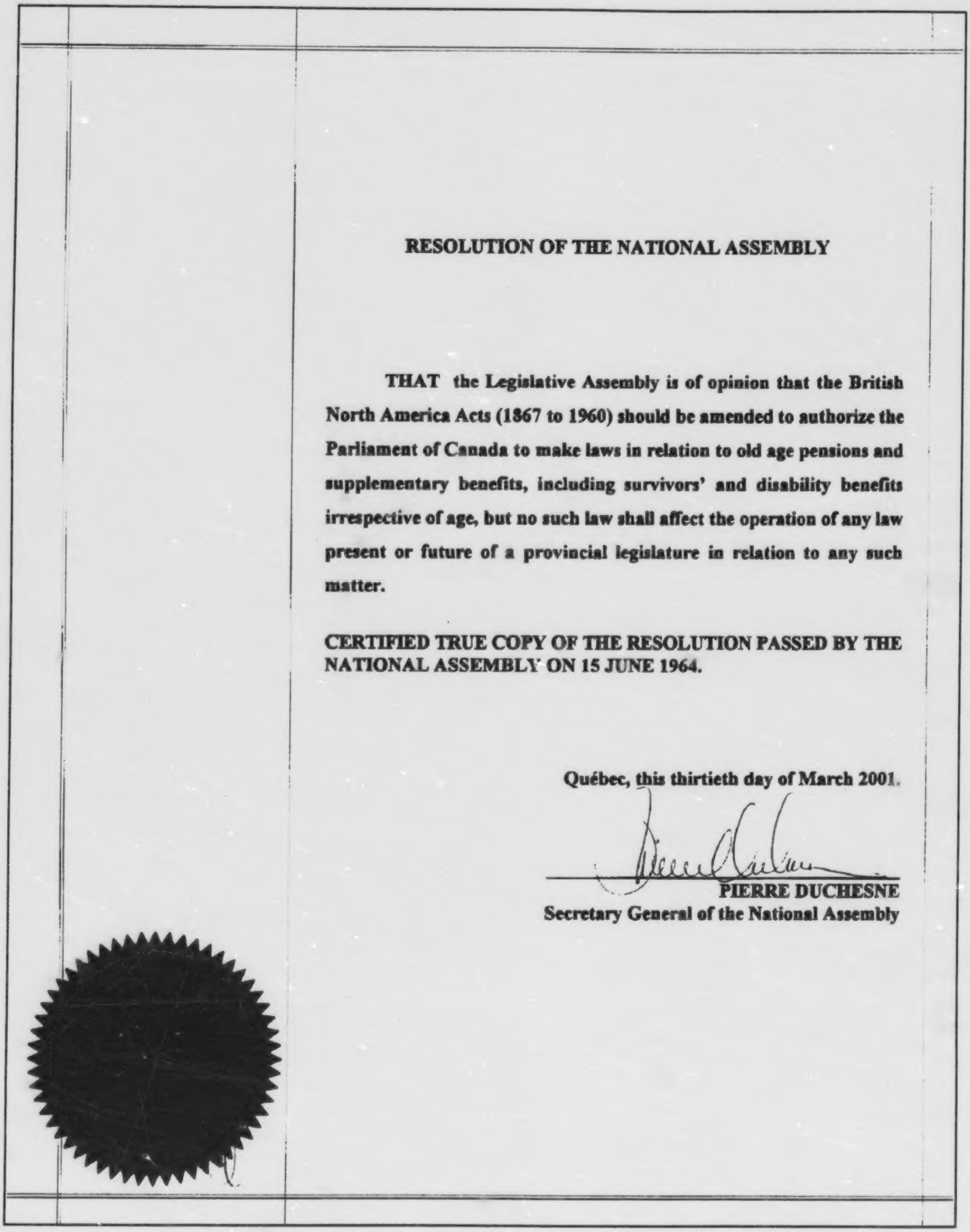
CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 21 JANUARY 1960.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 7

Resolution of the Québec Legislative Assembly authorizing the 1964 Constitutional amendment (old-age pensions and supplementary benefits) June 15, 1964.



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the Legislative Assembly is of opinion that the British North America Acts (1867 to 1960) should be amended to authorize the Parliament of Canada to make laws in relation to old age pensions and supplementary benefits, including survivors' and disability benefits irrespective of age, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 15 JUNE 1964.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 8

Correspondence from January to February 1966 between the Prime Minister of Québec, Jean Lesage, and the Prime Minister of Canada, Lester B. Pearson, regarding the Fulton-Favreau Formula.

OFFICE OF THE PRIME MINISTER
PROVINCE OF QUEBEC

January 20, 1966

The Right Honourable Lester B. Pearson, P.C.
Prime Minister of Canada
Parliament Buildings
Ottawa

My dear Prime Minister,

As is fitting upon the eve of a new session of the Legislature, the Quebec cabinet recently reviewed the principal items likely to be considered thereat. Among them are the draft bills entitled "Quebec Parliament Act" and "An act to provide for the amendment in Canada of the Constitution of Canada".

At the last regular session, the Legislative Assembly voted an address to Her Majesty, praying her to cause to be laid before the Parliament of the United Kingdom the bill entitled: "Quebec Parliament Act". This is linked up with the proposed constitutional amendment bill since the latter would have the effect of ensuring definitively to the only provincial upper House still in existence an absolute right of veto over any amendment of its own powers. Since the British parliament has not yet been seized of the request of the Legislative Assembly, the latter has not been called upon to consider the proposed formula for amending our constitution.

Many events have occurred since this formula was elaborated, and it would not be proper to ignore them. Among them should be mentioned the country-wide debate which has taken place respecting the formula itself, the continued dialogue between Quebec and the rest of the country,

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a constant and sustained evolution towards a new relationship between Quebec, the other provinces and the Government of Canada, the progress of the studies and discussions undertaken by the Tax Structure Committee, the Royal Commission of Inquiry on Bilingualism and Biculturalism and our own Special Committee on the Constitution.

You are also aware that the proposed formula for amending our constitution has caused some anxiety in Quebec. Whatever the cause of this feeling, it is a factor which should not be ignored. For instance, I personally am struck by the fact that, as early as last spring, the formula was not being interpreted everywhere in the same way. Thus I had always assumed that, as regards the amendment of legislative powers, any diminution of provincial power required unanimity, whereas any increase of such power called for the concurrence of only two-thirds of the provinces representing one-half of the population. This view, however, is not shared by everyone, even the specialists. It is contended, in fact, that under the formula any province could prevent the extension of the powers of another province. Needless to say, if that interpretation were to prevail, the evolution of our constitutional system in the direction desired by Quebec might become very difficult.

The visit which I recently had occasion to make to Western Canada also made me aware of the considerable difference between the manner in which Quebec wishes to see our constitutional system develop and the views held on this subject by many Canadians in other provinces. This difference of opinion, moreover, was confirmed to some extent by statements made after that visit by authorized representatives of other provinces. My feeling is that after this interval for everyone to ponder our country's future, we shall be in a better position to know what to aim for. It will also be most useful, in that regard, to reflect upon the work of the Tax Structure Committee and the forthcoming report of the Royal Commission on

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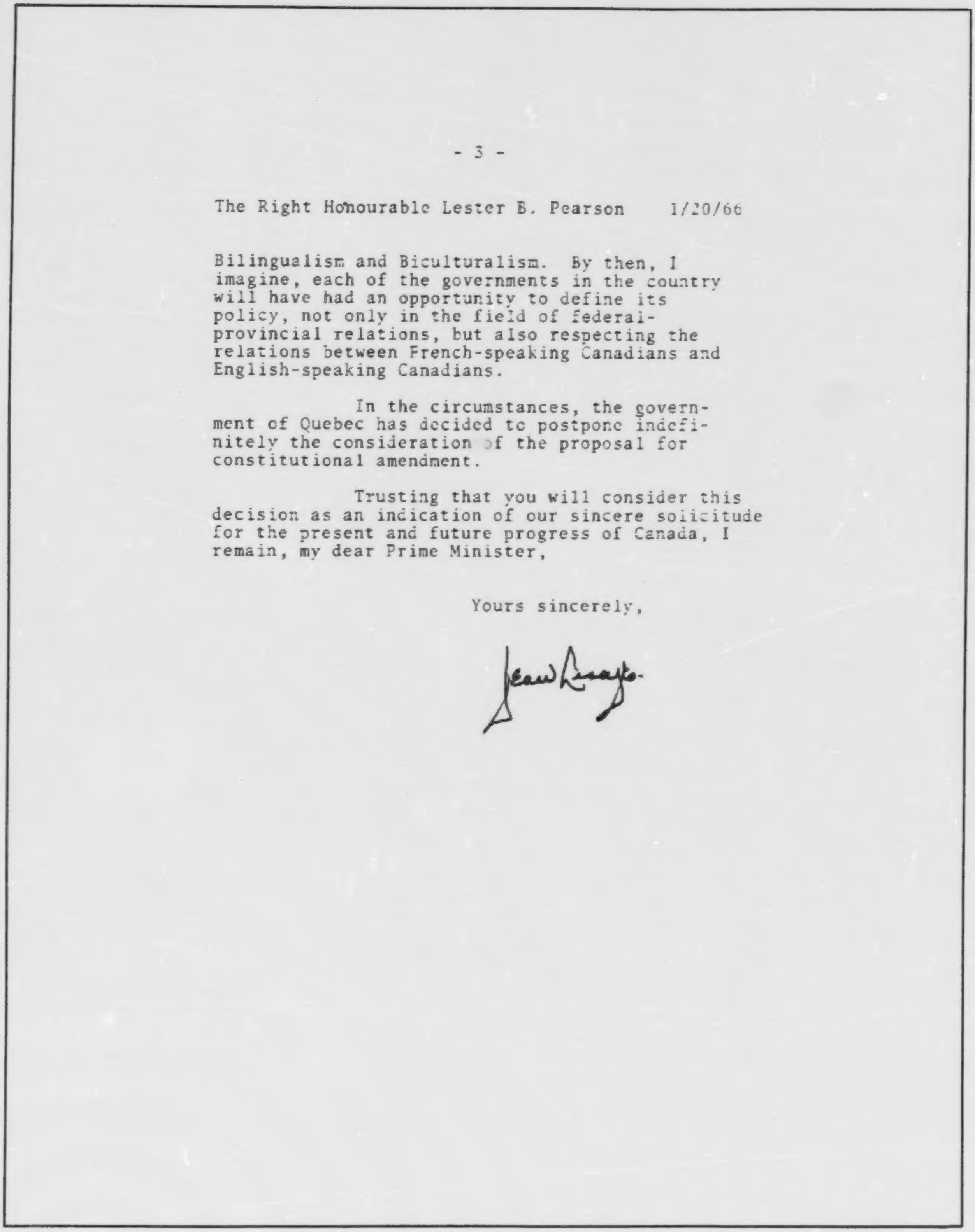

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The Right Honourable Lester B. Pearson 1/20/66

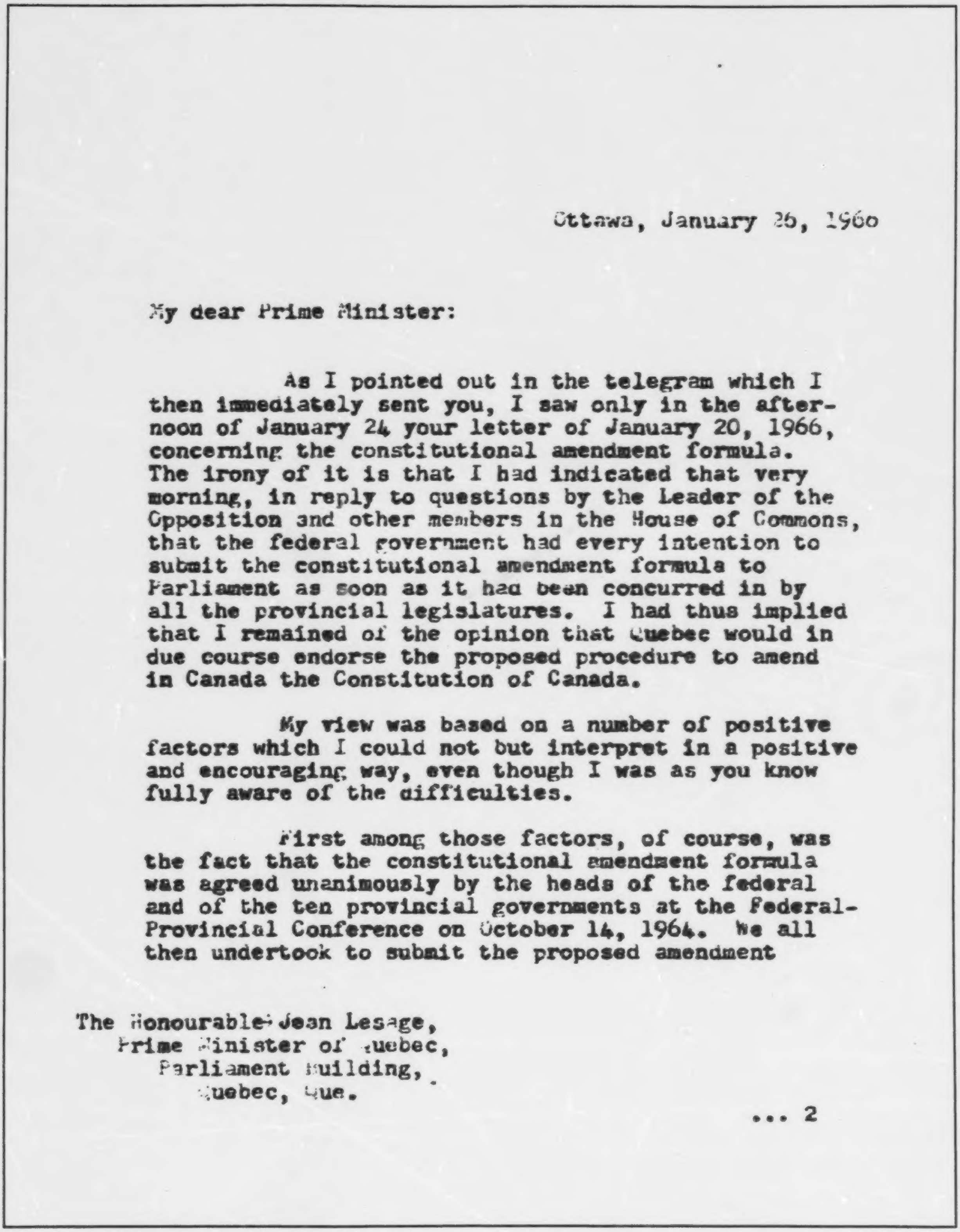
Bilingualism and Biculturalism. By then, I imagine, each of the governments in the country will have had an opportunity to define its policy, not only in the field of federal-provincial relations, but also respecting the relations between French-speaking Canadians and English-speaking Canadians.

In the circumstances, the government of Quebec has decided to postpone indefinitely the consideration of the proposal for constitutional amendment.

Trusting that you will consider this decision as an indication of our sincere solicitude for the present and future progress of Canada, I remain, my dear Prime Minister,

Yours sincerely,

Jean Lesage



Ottawa, January 26, 1966

My dear Prime Minister:

As I pointed out in the telegram which I then immediately sent you, I saw only in the afternoon of January 24 your letter of January 20, 1966, concerning the constitutional amendment formula. The irony of it is that I had indicated that very morning, in reply to questions by the Leader of the Opposition and other members in the House of Commons, that the federal government had every intention to submit the constitutional amendment formula to Parliament as soon as it had been concurred in by all the provincial legislatures. I had thus implied that I remained of the opinion that Quebec would in due course endorse the proposed procedure to amend in Canada the Constitution of Canada.

My view was based on a number of positive factors which I could not but interpret in a positive and encouraging way, even though I was as you know fully aware of the difficulties.

First among those factors, of course, was the fact that the constitutional amendment formula was agreed unanimously by the heads of the federal and of the ten provincial governments at the Federal-Provincial Conference on October 14, 1964. We all then undertook to submit the proposed amendment

The Honourable Jean Lesage,
Prime Minister of Quebec,
Parliament Building,
Quebec, Que.

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procedure to our respective governments for formal approval following whatever procedure each thought appropriate. Secondly the White Paper which the federal government published on the subject in March 1965 had been endorsed without qualification by the ten provincial governments. Indeed, the Quebec authorities actively participated in the preparation of the French texts of both the amendment formula and the White Paper, and accepted them officially. The White Paper contained a detailed explanation of the various clauses of the amendment formula which was not questioned at the time.

Thirdly the Speech from the Throne, at the opening of the last session of your legislature, stated that: "So that the repatriation of the Constitution shall not have the effect of entrenching the powers of the Legislative Council over bills passed by the Legislative Assembly, you will be asked to restrict those powers". As a result, the Legislative Assembly eventually approved an Address to Her Majesty, praying Her to cause to be laid before the Parliament of the United Kingdom the bill entitled: "Quebec Parliament Act". For its part, the federal government has made a clear distinction, in deciding on the procedure that it should follow in advising the Governor General, between the Address approved by the Legislative Assembly of Quebec which relates only to the Constitution of Quebec, and the Address concerning the constitutional amendment procedure which relates to the Constitution of Canada. Your government, however, as confirmed in your letter of January 20, 1966, has maintained a direct link between the two proposals. Therefore I have to ask myself

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whether, as a matter of policy, the Legislative Assembly and the Government of Quebec would still wish the "Quebec Parliament Act" to be introduced in the United Kingdom Parliament.

Fourthly all the provinces, except Quebec, have formally notified the federal government of their formal concurrence in the proposed amendment formula. Undoubtedly in seeking the approval of their respective legislatures and in giving formal approval to the formula they shared my confidence that the Government of Quebec would take a similar step.

Finally, the federal government has all along been conscious of the potential relationship which exists between the amendment procedure and eventual revision of the Constitution itself. The studies mentioned in your letter as likely to have important implications for the constitutional development of Canada, were initiated before or concurrently with the approval of the amendment formula. The Royal Commission on Bilingualism and Biculturalism was established in July 1963; the Special Committee on the Constitution of the Legislative Assembly of Quebec was created in June 1963; and the terms of reference of the Tax Structure Committee were agreed on October 14, 1964, immediately before the Federal-Provincial Conference also unanimously approved the constitutional amendment formula itself. Those are not therefore entirely new developments. Frankly, I had assumed that since the constitutional amendment formula represented, from the point of view of both the federal government and the provincial governments,

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such a marked improvement over the existing procedure in enabling us at last to amend our Constitution in Canada without having to go to the Parliament of another country, that the eleven governments would be prepared to accept it. But I certainly never excluded the possibility that, as part of an eventual revision of the Constitution, the amendment procedure itself might then have to be modified to respond more effectively to any new federal-provincial relationship that might by then seem wiser or sounder for the achievement of constitutional change in the future.

In conclusion, I am bound to express my great disappointment with the decision of your government to postpone indefinitely the consideration of the proposal for constitutional amendment. I venture to hope that the Government of Quebec might be prepared to reconsider its decision in the light of the hopeful circumstances to which I have referred and of the many developments in the last three years in the field of Federal-Provincial relations. At the same time, I fully accept, of course, the expression of your "sincere solicitude for the present and future progress of Canada" contained in the closing paragraph of your letter of January 20, 1966. It is as a step in that progress and as an instrument for its continuance that the Government of Canada had hoped to see the amendment formula approved.

It is clear that, if your government does not consider that it can alter its position, we shall have to discuss the whole matter again at a future meeting of the Federal-Provincial Conference. Meanwhile, the position of my government remains as stated in that part of the Speech from the Throne opening

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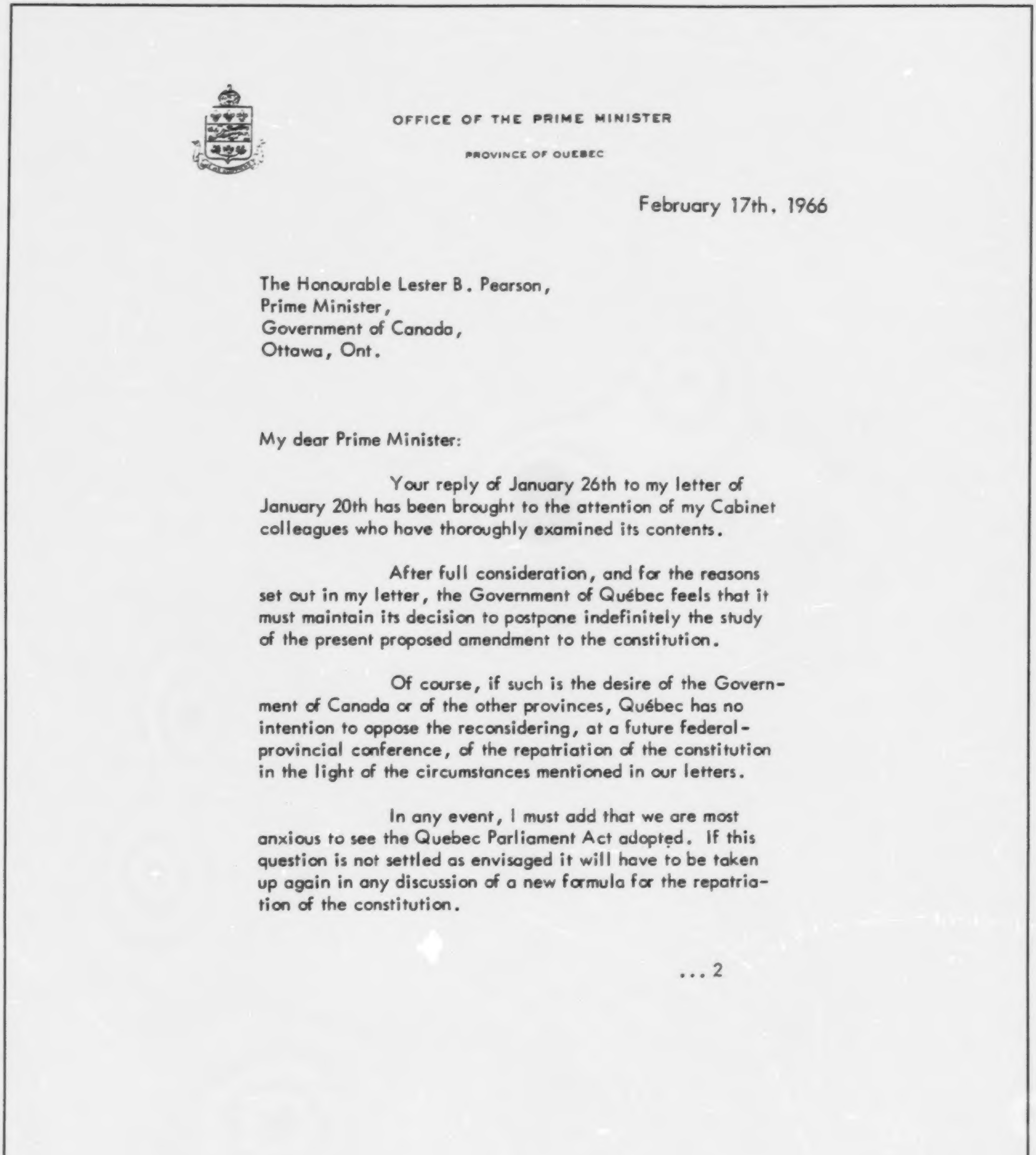
the current session of Parliament, which reads: "It remains the objective of the federal government to provide that the Constitution of Canada may be amended in Canada".

Yours sincerely,

(SIGNED) L. B. PEARSON



OFFICE OF THE PRIME MINISTER
PROVINCE OF QUEBEC

February 17th, 1966

The Honourable Lester B. Pearson,
Prime Minister,
Government of Canada,
Ottawa, Ont.

My dear Prime Minister:

Your reply of January 26th to my letter of January 20th has been brought to the attention of my Cabinet colleagues who have thoroughly examined its contents.

After full consideration, and for the reasons set out in my letter, the Government of Québec feels that it must maintain its decision to postpone indefinitely the study of the present proposed amendment to the constitution.

Of course, if such is the desire of the Government of Canada or of the other provinces, Québec has no intention to oppose the reconsidering, at a future federal-provincial conference, of the repatriation of the constitution in the light of the circumstances mentioned in our letters.

In any event, I must add that we are most anxious to see the Quebec Parliament Act adopted. If this question is not settled as envisaged it will have to be taken up again in any discussion of a new formula for the repatriation of the constitution.

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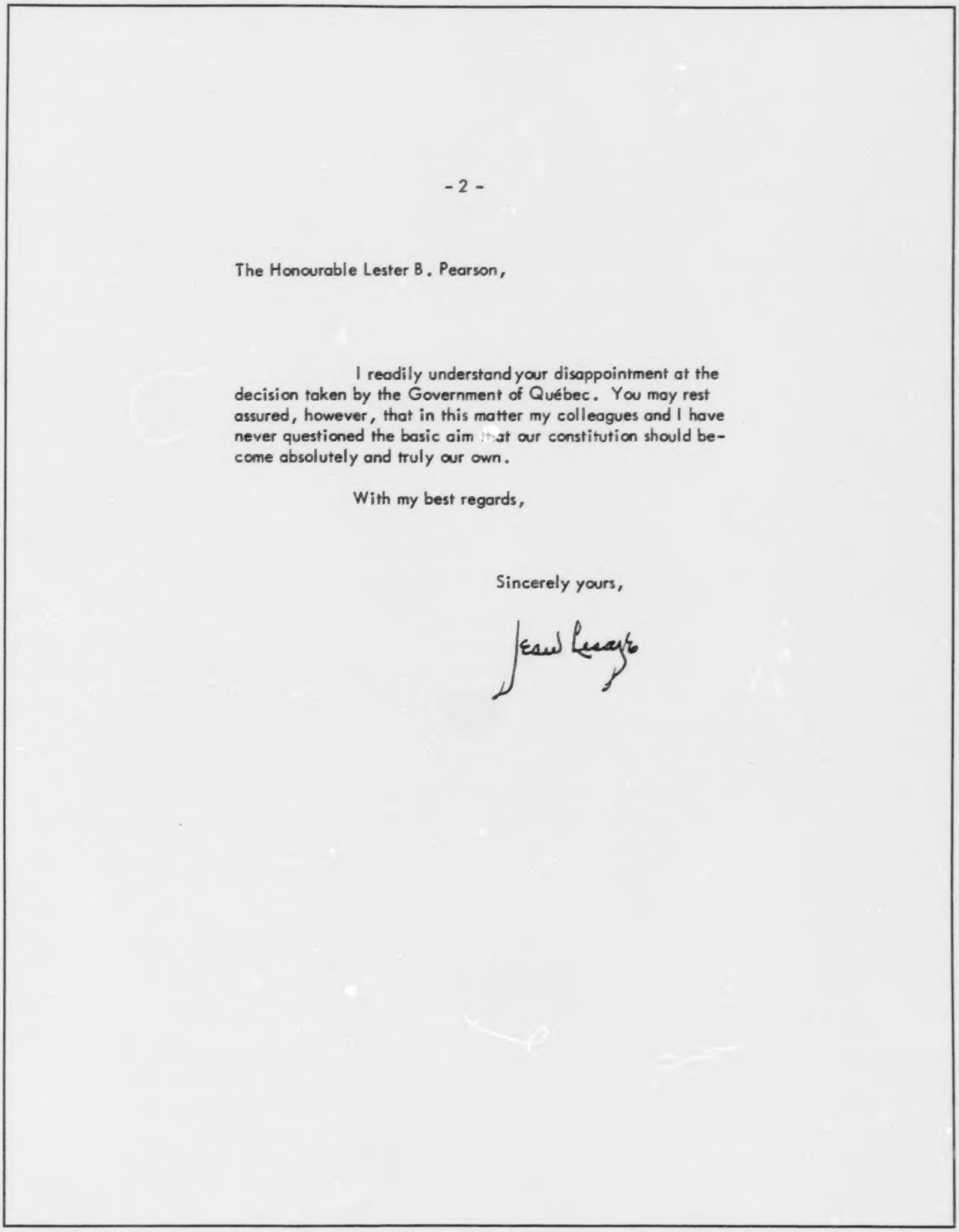


- 2 -

The Honourable Lester B. Pearson,

I readily understand your disappointment at the decision taken by the Government of Québec. You may rest assured, however, that in this matter my colleagues and I have never questioned the basic aim that our constitution should become absolutely and truly our own.

With my best regards,

Sincerely yours,

Jean Lesage

DOCUMENT 9

Statement by the Prime Minister of Québec, M. Robert Bourassa, as regards the Victoria Constitutional Charter, Québec, June 23, 1971 (communiqué).

[Translation]

COMMUNIQUÉ

For immediate publication

The Constitutional Charter

STATEMENT BY THE PRIME MINISTER OF QUÉBEC, ROBERT BOURASSA

Québec, June 23, 1971 - The Prime Minister of Québec publicly made the following statement:

"Federalism represents for Quebecers the best means for attaining their economic, social and cultural objectives.

Quebecers supported this option of the government of Québec during the last general election.

In keeping with Quebecers' clearly expressed desire in this sense, the government will devote its efforts to reinforcing Canadian federalism. As such, it feels that federalism must be decentralized in order to reflect the diversity of the regions of our country. This federalism must also guarantee provinces the freedom of action they need for fully assuming their responsibilities with regard to their citizens; this federalism must also allow the government of Québec to ensure the cultural future of the majority of its population.

Constitutional review is precisely the way for giving us this type of federalism. Works undertaken over the past three years have allowed Canadians to progress in this direction. The recent conference of the First and Prime Ministers constituted a step in the right direction; important progress has been made regarding machinery for patriating and amending the constitution, political and linguistic rights, the status of the Supreme Court, etc.

In the current state of the constitutional reform project, the government of Québec cannot, however, make a positive recommendation to the National Assembly as regards the acceptance of the current Constitutional Charter project.

This decision stems from the need to agree insofar as possible on clear and precise constitutional texts, thereby avoiding a shift of responsibility to the judicial branch, as such responsibility first belongs to the political branch, i.e. to those the people have elected. As such, the texts dealing with income security still contain an uncertainty that squares poorly with the objectives inherent in any notion of constitutional review. If this uncertainty were to be eliminated, our conclusion could be different.

As such, the government of Québec intends on notifying the secretary of the Constitutional Conference that it cannot accept this draft Constitutional Charter.

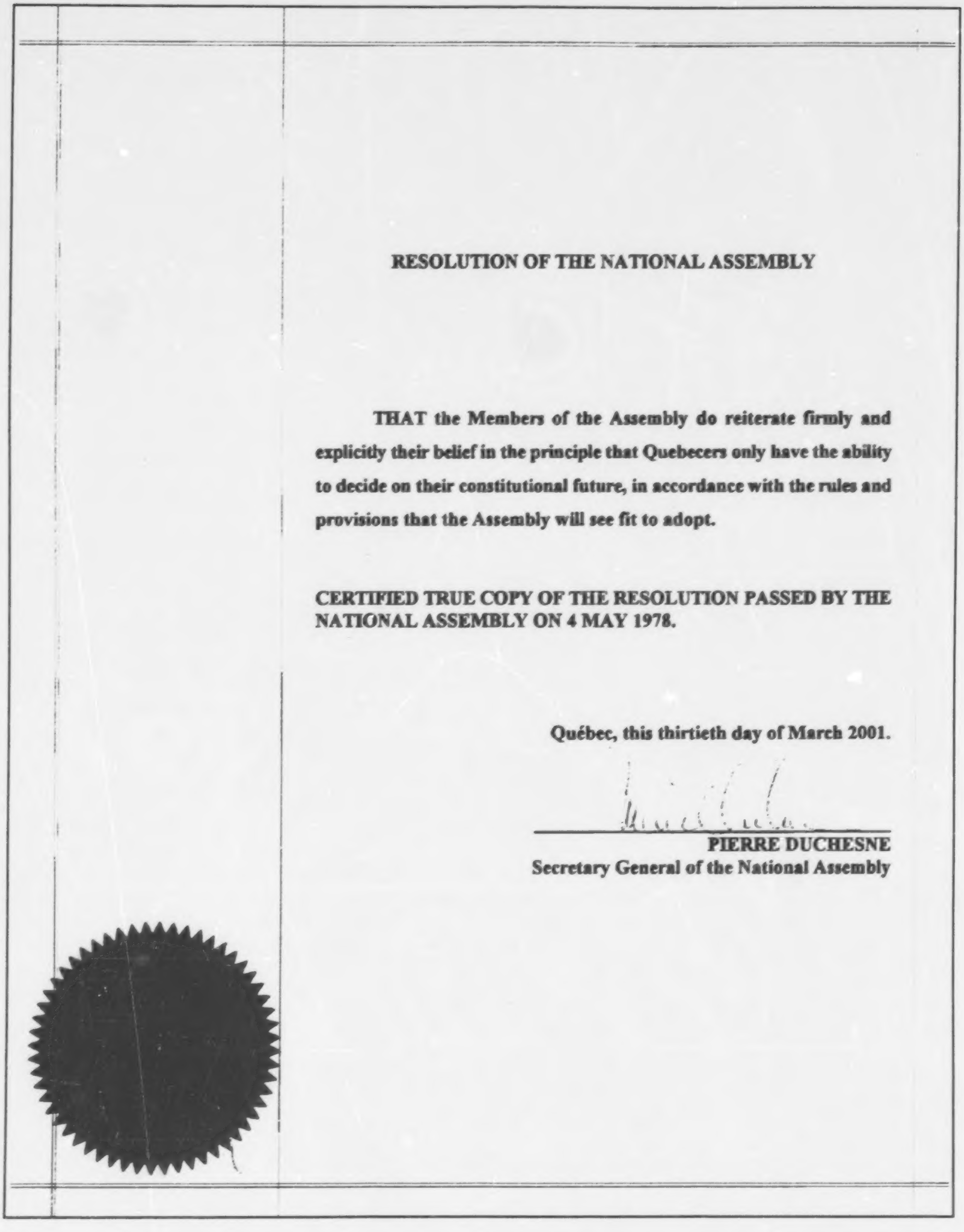
This decision of the government of Québec is an appeal to every Canadian's capacity for innovation and determination and it urges them to pursue the task they have undertaken to give Canadians a truly modern constitution."

- 30 -

Source:
Charles Denis
(418) 643-5321

DOCUMENT 10

Resolution of the Québec National Assembly on the right of Quebecers to decide on their constitutional future, May 4, 1978.



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the Members of the Assembly do reiterate firmly and explicitly their belief in the principle that Quebecers only have the ability to decide on their constitutional future, in accordance with the rules and provisions that the Assembly will see fit to adopt.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 4 MAY 1978.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 11

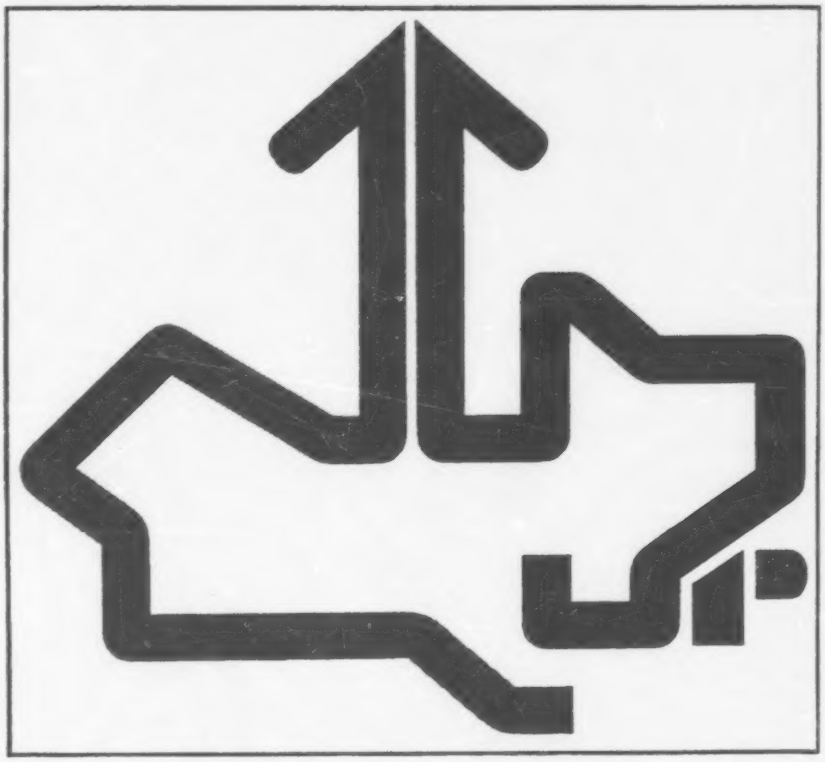
***Québec-Canada : A New Deal. The Québec Government Proposal for a New Partnership Between Equals : Sovereignty-Association*, 1979 (extract).**

Québec-Canada:
A New Deal

The Québec government proposal
for a new partnership between equals:
sovereignty-association

Éditeur officiel
Québec

Chapter Four
A New Deal



Chapter Four
A New Deal

If we are really looking for a new agreement between Québec and the rest of Canada, it is absolutely essential to replace federalism by another constitutional formula.

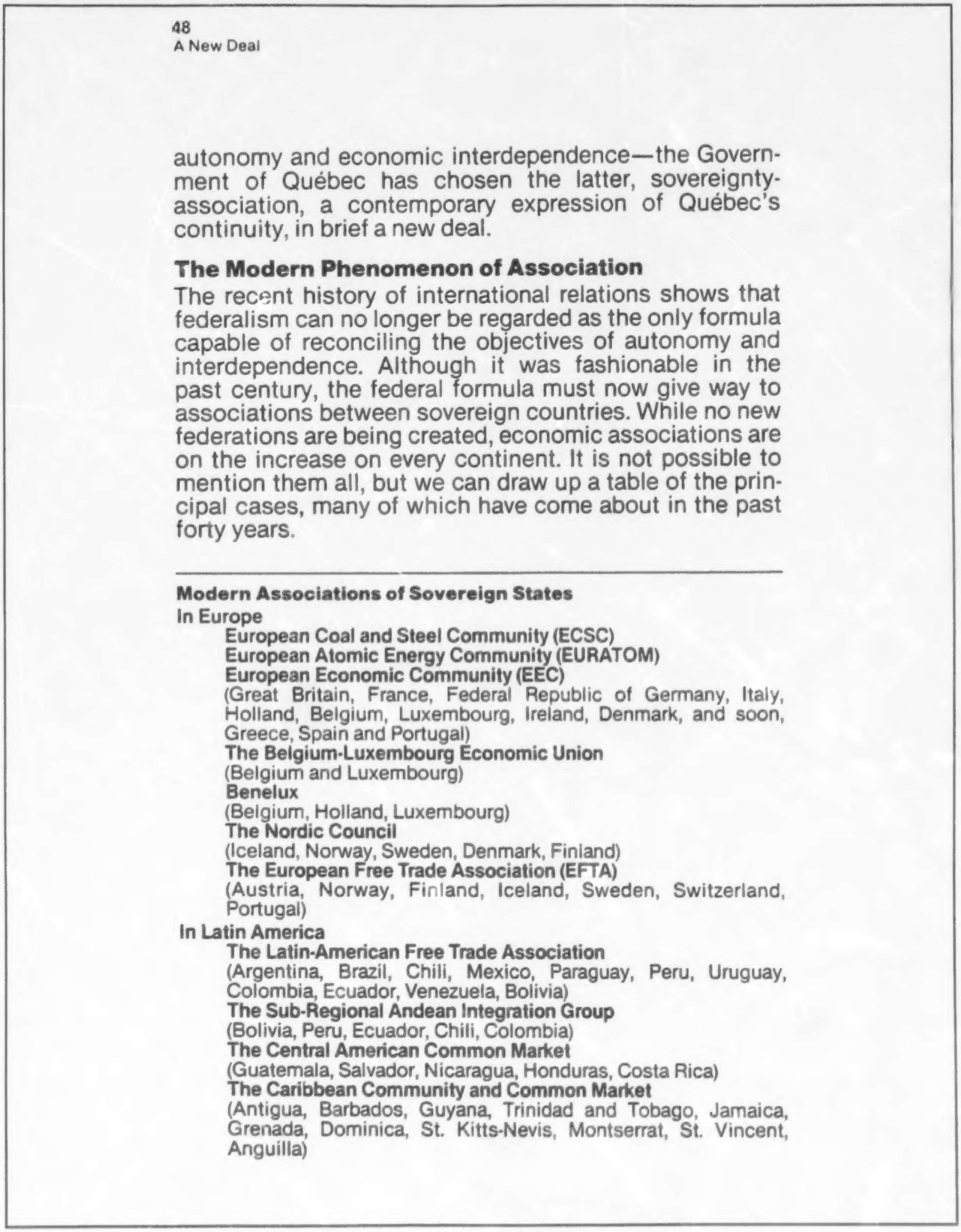
This search for a new formula must be carried out with due consideration for the fundamental, legitimate preoccupations of Quebecers, who want to communicate and talk directly and freely with their neighbours and with other nations, who do not want to destroy Canada or to be completely separate from it, who wish to improve their situation, and who are determined to see that the changes to come are made democratically and without disorder.

The Government of Québec fully shares and endorses these preoccupations.

The Way of the Future

Thinking of the future the Government of Québec proposes a constitutional formula which would replace the present federal system and at the same time respect the legitimate feelings of Quebecers toward Canada. This new system, while freeing Québec from Ottawa's domination, would not break up an economic community that extends from the Atlantic to the Pacific; it would ensure for Québec a maximum of autonomy while maintaining the natural interdependence and the historical and human links that exist between Québec and the rest of Canada; it would enable Québec to institute the measures that it lacks at present, without forcing the other provinces to accept responsibilities they do not feel they need. This new system would provide permanent solutions to the many problems engendered by relations between Québec and Ottawa over the years.

Of the two roads open to Quebecers—a federalism whose fundamental renewal is to all intents and purposes impossible because it would contradict the very nature of federalism, and a new agreement between Québec and Canada capable of reconciling political



autonomy and economic interdependence—the Government of Québec has chosen the latter, sovereignty-association, a contemporary expression of Québec's continuity, in brief a new deal.

The Modern Phenomenon of Association

The recent history of international relations shows that federalism can no longer be regarded as the only formula capable of reconciling the objectives of autonomy and interdependence. Although it was fashionable in the past century, the federal formula must now give way to associations between sovereign countries. While no new federations are being created, economic associations are on the increase on every continent. It is not possible to mention them all, but we can draw up a table of the principal cases, many of which have come about in the past forty years.

Modern Associations of Sovereign States
In Europe
  European Coal and Steel Community (ECSC)
  European Atomic Energy Community (EURATOM)
  European Economic Community (EEC)
  (Great Britain, France, Federal Republic of Germany, Italy, Holland, Belgium, Luxembourg, Ireland, Denmark, and soon, Greece, Spain and Portugal)
  The Belgium-Luxembourg Economic Union
  (Belgium and Luxembourg)
  Benelux
  (Belgium, Holland, Luxembourg)
  The Nordic Council
  (Iceland, Norway, Sweden, Denmark, Finland)
  The European Free Trade Association (EFTA)
  (Austria, Norway, Finland, Iceland, Sweden, Switzerland, Portugal)
In Latin America
  The Latin-American Free Trade Association
  (Argentina, Brazil, Chili, Mexico, Paraguay, Peru, Uruguay, Colombia, Ecuador, Venezuela, Bolivia)
  The Sub-Regional Andean Integration Group
  (Bolivia, Peru, Ecuador, Chili, Colombia)
  The Central American Common Market
  (Guatemala, Salvador, Nicaragua, Honduras, Costa Rica)
  The Caribbean Community and Common Market
  (Antigua, Barbados, Guyana, Trinidad and Tobago, Jamaica, Grenada, Dominica, St. Kitts-Nevis, Montserrat, St. Vincent, Anguilla)

In Africa
- **The West African Economic Community**
  (Ivory Coast, Mauritania, Upper Volta, Mali, Niger, Senegal)
- **The Central African Customs and Economic Union**
  (Cameroon, Central African Empire, Popular Republic of the Congo, Gabon)
- **The West African Monetary Union**
  (Benin, Ivory Coast, Upper Volta, Niger, Senegal, Togo, Mali)
- **The Central Bank of Central African States**
  (Cameroon, Central African Empire, Congo, Gabon, Tchad)

In Asia
- **The Association of South East Asian Nations (ASEAN)**
  (Indonesia, The Philippines, Malaysia, Singapore, Thailand)

These various associations of sovereign states are distinguished from one another by the nature of their activity and the degree of their integration, as well as by the history of relations between the member states and their various characteristics: population, culture, political system, etc.

The European communities are probably the most advanced examples of economic integration. Their activity is primarily economic, but it also spills over into social policy and scientific policy, among other areas. The economic union between Belgium and Luxembourg, and the Benelux countries, which appeared before the European Economic Community, are part of the European movement toward economic integration, while preserving a certain cohesion of their own within the Nine. As for the European Free Trade Association, its economic links are rather weak.

On the other hand, the Nordic Council and the Association of Southeast Asian Nations, while not as completely integrated, have a much more diversified activity.

Basing itself firmly on the historical trend of Québec thinking, which has always sought to redefine relations between Québec and the rest of Canada on a more egalitarian basis, the Government of Québec proposes this type of modern formula of association between sovereign countries to ensure for Quebecers a better control of their own affairs, without shattering the Canadian economic framework.

Association in equality may take many forms: far more flexible than federalism, it is more easily adapted to the realities of countries that resort to it, and the degree of association will depend on whether cooperation is to be limited to certain fields or maximum advantage is to be taken of a broader economic community.

Modern economic associations are generally the result of cooperation between individual countries and entirely sovereign nations, which have agreed to pool some of their powers. In such cases, integration is based on the sovereignty of the partners. In our case, however, economic integration already exists and it is the sovereignty of the partners that must be established. The point of departure is different but the aim is identical.

The Implications of Sovereignty

The idea of sovereignty is clearly defined in international law: it is, in general terms, the power to make decisions autonomously, without being subject in law to any superior or exterior power, which implies that the sovereign state has full jurisdiction over a given territory. Sovereignty ensures complete autonomy, in the sense that the state enjoys full legal freedom in all fields; its authority is exercised to the exclusion of any other within the limits of its territory; and it can be present in the community of nations.

The sovereign state may, however, of its own accord and without giving up its sovereignty, agree to limit its scope or to delegate part of it in certain specific fields.

Thus, for two states linked by an agreement or parties to an association, the joint exercise of their sovereignty would necessarily be reflected in reciprocal concessions. In the case that concerns us, any limitation that Québec would agree to impose on the exercise of its sovereignty would entail, in return, the corresponding limitation, accepted by Canada, of its own sovereignty.

In a federal system, sovereignty is shared by two powers one of which, the central power, has priority. Consequently, citizens are ruled by two governments, two sets of laws and two court systems; there are two kinds of elections, one to elect the central parliament (the House of Commons, in Ottawa) the other to elect a local parliament (the National Assembly, in Québec); there are also two taxation systems. On the other hand there is a single customs tariff, a single currency and a single international personality.

Under the formula proposed by the Government of Québec, sovereignty would reside entirely in the State of Québec, so that Quebecers would be ruled by a single government and would pay taxes only to Québec. Because of the association, Québec and Canada would continue to share a single customs tariff and a single currency. Each partner, however, would have its own international personality.

In legal terms, the difference between the two formulas could be stated this way: at present, the relations between Québec and Canada are ruled by a Constitution that divides powers between two governments, only one of which, the federal government, has an international personality; in the formula proposed by the Government of Québec, both Québec and Canada would have an international personality, and their relations would be ruled not by a constitution, but by a treaty of association. While the present situation of Québec in relation to Ottawa resembles that of the states of Maine or Illinois in relation to Washington, within the framework of an association it would be more like that of France or Holland in relation to the European Common Market, with certain important differences.

Any comparison, though, has its faults. The United States or the Common Market arose out of needs and situations that do not necessarily correspond to those of Québec and Canada today, and the same can be said of all associations that have been attempted thoughout the world until now. Very different political formulas and structures correspond to diverse experience, and none represents a model made to measure. Although the best known reorganization and association experiment, that of Europe, is often evoked in the present document, this does not mean that the proposal of the Québec government is totally based on it, as though it were a prototype that could be imported here, particularly since the European experiment is far from complete.

Types of Association

The economic association of sovereign states may assume many forms, according to the combination of shared elements and total sovereignty that is selected. Sharing a certain number of elements may be carried out through legal, statutory or institutional arrangements as numerous as they are varied, so that between the state almost free of any ties and the national community almost completely eclipsed by a larger state there is an infinite number of intermediary situations and possible arrangements. It is customary to distinguish four general integration formulas, from the least restrictive to the most complete: the free trade zone, the customs union, the common market and the monetary union.

Forms of Association

— In general, a **free trade** zone is defined as **a geographical area composed of sovereign states within which goods can move freely.** The sovereign states that constitute such zones do not have to be geographical neighbours, as is the case in the European Free Trade Association. In such cases, no customs are levied between participating countries and each decides freely on its own trade policy towards non-member countries. A free trade zone can be total, or it can include the right to ressort to certain measures, administrative measures for instance, that restrict its scope in some areas. Aside from such distinctions, we can say that if Canada and Québec opted for such a formula there would be no customs to pay on goods going from Québec to Canada or from Canada to Québec. On the other hand, both Québec and Canada would remain free to establish the tariff barriers and commercial policies toward other countries which would appear desirable to them.

— The **customs union** is defined as **the area formed by sovereign states within which customs barriers have been suppressed and which has established a single trade policy and a uniform tariff toward third countries.** In practice, such a formula can tolerate certain specific arrangements aimed at taking into account, temporarily or on a long-term basis, certain specific situations. The general formulas covered by the term customs union differ from the free trade zone in that they include, to a certain extent, the adoption of a common trade policy toward non-members. In general terms, if Québec and Canada opted for a customs union, they would accept the free flow of goods within the present boundaries of Canada and would maintain a single tariff toward the rest of the world.

— A **common market** is **the space formed by sovereign states within which goods, people and capital can flow freely, this zone being linked to the rest of the world by a single tariff and trade policy.** Here again, the formula allows for many varied arrangements according to regions, areas of activity, time, etc. If such special arrangements are substantial, the formula is sometimes called an **imperfect common market.** This is **the case at present** of Canada, due particularly to provisions regarding **agricultural products, oil products** and **railway tariffs.**

Moreover, Canada is not a real common market because it is not made up of sovereign states. Should Québec and Canada together create a more or less perfect common market, they would have to replace existing federal institutions by truly joint institutions.

— A **monetary union,** finally, is defined as **the area formed by sovereign states within which goods, people and capital flow freely,** this zone on the one hand being linked to rest of the world by a single trade and tariff policy and, on the other hand, possessing a single currency and hence the same monetary policy. Here again, the transformation of Canada into a true Québec-Canada monetary union would mean replacing present federal monetary institutions by joint institutions.

The Special Character of the Québec-Canada Relationship

The examples cited above show the great variety in the types of association entered into by many sovereign peoples throughout the world; no less different are the historical circumstances that led these people to such varied solutions. Québec too has evolved in circumstances that are specific to it, circumstances which, while they have certain analogies with some of the cases cited above, cannot be reduced to any one of them. The institutions and the functioning of the future association between Québec and Canada must reflect what is specific to each of the communities.

Most of the countries now grouped in various associations enjoyed sovereignty long before they joined together, while those that associated a few decades ago did so at a time when the state did not yet occupy as large a place in the economic activity of nations. On the one hand, Québec has not yet gained its sovereignty, while on the other hand, the institutions of the state, because of the size of their expenditures at all levels of government, play a considerable economic and social role in Québec as well as in the rest of Canada.

Given the situation of our two communities, and because the economic space that Canada and Québec share must be both preserved and developed, the Québec government wants to propose to the rest of Canada that the two communities remain in association, not only in a customs union or a common market but in a monetary union as well. Thus Canada can be preserved intact as an economic entity, while Québec can assume all the powers it needs as a nation to ensure its full development. Replacing federalism by assocation will, in effect, maintain economic exchange, but the nature of political and legal relations between Québec and Canada will be changed.

The Proposal

For a proper understanding of the formula proposed by the Government of Québec, we will describe how it will function by examining the powers that will be exercised by Québec and specifying the extent of the association between Québec and Canada; we will also say a word about the Québec-Canada community structures that must be provided for.

We hasten to state that the changes described here will not occur overnight after the Referendum, but will be, can only be, the result of negotiations between Québec and Canada, negotiations that will be started as a result of a positive answer in the Referendum. In the next chapter we will explain how the proposed formula will be gradually implemented.

A. Sovereignty

Through sovereignty, Québec would acquire, in addition to the political powers it already has, those now exercised by Ottawa, whether they were assigned to the federal government under the British North America Act of 1867 or whether it assumed them since that time, directly or indirectly.

Sovereignty is the power to levy all taxes, to make all laws and to be present on the international scene; it is also the possibility to share freely, with one or more states, certain national powers. Sovereignty for Québec, then, will have a legal impact on the power to make laws and to levy taxes, on territorial integrity, on citizenship and minorities, on the courts and various other institutions, and on the relations of Québec with other countries.

For each of these subjects, the government wishes to define as clearly as possible the position it intends to adopt in its negotiations with the rest of Canada.

- ***Laws and Taxes***

The only laws that will apply on Québec's territory will be those adopted by the National Assembly, and the only taxes that will be levied will be those decreed by Québec law. In this way, there will be an end to the overlapping of federal and Québec services, which has been so often denounced, thereby enabling Québec to control the totality of its fiscal resources.

Existing federal laws will continue to apply as Québec laws, as long as they are not amended, repealed or replaced by the National Assembly.

- ***Territory***

Québec has an inalienable right over its territory, recognized even in the present Constitution, which states that the territory of a province cannot be modified without the consent of that province. Moreover, since the agreements were reached on James Bay, there no longer is any lien on any part of the Québec territory. In becoming sovereign, Québec, as is the rule in international law, will thus maintain its territorial integrity.

Moreover, it would be desirable for Québec to regain the advantages that would normally come to it from its geographical position, putting an end to the uncertainties that have surrounded the issue of jurisdiction over the Gulf of St. Lawrence, Labrador and the Arctic regions.

- ***Citizenship***

The Québec government gives its solemn commitment that every Canadian who, at the time sovereignty is achieved, is a resident of Québec, or any person who was born there, will have an automatic right to Québec citizenship; the landed immigrant will be able to complete residency requirements and obtain citizenship. The Parliament of Canada will have to decide whether Canadians who become Québec citizens may maintain their Canadian citizenship as well. Québec, for its part, would have no objection.

Any person who is born in a sovereign Québec will have the right to Québec citizenship; the same will hold true for any person born abroad of a father or mother who has Québec citizenship.

Québec citizenship will be recognized by a distinct passport, which does not rule out the possibility of an agreement with Canada on a common passport, since the two states will have close relations, of a community nature, that may cover many subjects.

Canadian citizens will enjoy the same rights in Québec as Québec citizens enjoy in Canada. The acquired rights of foreign nationals will also be fully recognized.

- ***The Minorities***

The government pledges that Québec's Anglophone minority will continue to enjoy the rights now accorded it by law, and that other communities in Québec will be given the means to develop their cultural resources.

The Amerindian and Inuit communities, if they so desire, will be in full possession on their territory of institutions that maintain the integrity of their societies and enable them to develop freely, according to their own culture and spirit.

As for Francophone minorities in Canada, Québec intends to fulfill its moral responsibilities towards them, as it has started to do, for that matter, despite its limited means.

- ***The Courts***

Naturally, the Québec courts will be the only ones to administer justice in Québec. All judges will be appointed in accordance with Québec laws, and judges who are now on the bench will remain in their functions. However, a joint court, constituted through the treaty of association between Québec and Canada, will have the power to interpret this treaty and decide on the rights that result from it.

- ***External Relations***

Québec will continue to be bound by the treaties to which Canada is now a signatory. It may withdraw from them should the occasion arise according to the rules of international law. Consequently, Québec will respect the agreement on the St. Lawrence Seaway and will become a full partner in the International Joint Commission. As for alliances such as NATO and NORAD, Québec will respect its responsibilities and offer its contributions in accordance with its aims.

In order to fully play its role on the international scene and defend its interests, Québec will ask to be admitted to the United Nations and to its specialized agencies.

Finally, while developing its relations and its cooperation with Francophone countries, Québec will consider remaining a member of the British Commonwealth.

B. Association

In today's world no nation, great or small, can live in isolation. Interdependence, considering the economic advantages that it brings, far from being as constraining as some seem to think, can on the contrary result in enriching forms of cooperation and interaction, and thus improve the present and future lot of the societies taking part.

Québec has never wanted to live in isolation: from the start it has accepted interdependence. However, it wishes to ensure that it will be directly involved in determining the terms of this interdependence.

To this end, the Québec government intends to offer to negotiate with the rest of Canada a treaty of community association, whose aim will be, notably, to maintain the present Canadian economic entity by ensuring continuity of exchange and by favouring, in the long run, a more rapid and better balanced development of each of the two partners.

This treaty will have an international status and will bind the parties in a manner and for a term to be determined. It will define the partners' areas of common activity and confirm the maintenance of an economic and monetary union between Québec and the rest of Canada. It will also determine the areas where agreement on goals will be considered desirable. Finally, it will establish the rules and institutions that will ensure the proper functioning of the Québec-Canada community, and determine its methods of financing.

• Areas of Common Action

(a) The Free Circulation of Goods

In order to ensure the free circulation of goods, the present situation in Québec and Canada will be maintained, and each party will renounce any right to customs barriers at common borders. With regard to foreign countries, the partners will jointly establish the tariff protection they deem necessary, taking into account the short and long-term interests of each of the parties, and multilateral agreements in the areas of trade and customs tariffs.

However, Québec will insist that the protection and development of its agricultural production be the object of special agreements.

Finally, the two States will take the necessary steps to guarantee free competition within their market and will abstain from any discriminatory fiscal measure towards each other's products.

(b) Monetary Union

The dollar will be maintained as the only currency having legal tender, and real or liquid assets as well as letters of credit will continue to be expressed in dollars. Circulation of capital will be free, but each party will be entitled to proclaim an investment code or to adopt, if need be, particular regulations applicable to certain financial institutions.

(c) The Free Circulation of People

In order to ensure the free circulation of people from one territory to the other, the two States will give up their right to impose a regular police control at their common border. It goes without saying that no passport will be required between Québec and Canada.

• Areas of Mutual Understanding

To ensure the proper functioning of the monetary and economic community, the two parties will agree on certain goals and types of legislation. This will be the case, notably, in the area of transportation, where it will be possible to make special agreements for railways, air transportation, and inland navigation; such agreements could also provide for joint management of public carriers such as Air Canada and Canadian National, for example.

The two States will negotiate special agreements on the regulations governing the labour market and the right to elect domicile.

The two parties will also consider of common interest policies inspired by current trends, and steps to be taken to ensure the equilibrium of the balance of payments and a stable currency. To this end, they will consult each other as well as the agencies responsible for the proper functioning of the union so as to adopt, when needed, measures provided for in the treaty of association.

Such efforts could be extended to several other areas—in particular defence—since Québec is firmly convinced not only of the advantages, but also of the necessity of an open policy of cooperation.

C. Community Institutions

There will obviously have to be negotiations on the number, composition, authority, financing, operation and general nature of the community institutions that Canada and Québec will have to create for the purposes of association. Whether inspired by foreign experiences or not, there are many possibilities. It is perfectly normal that each one should be carefully evaluated, for, besides being efficient, these institutions must suit each of the partners. This is why it would be premature at this time to try to draw up once and for all, and impose on others, the final form of these new structures. There is room for discussion, open-mindedness and creative reflection.

We must not forget that these community institutions, whatever their final shape, can not actually be set up until agreement is reached not only upon the institutions themselves, but on a number of other subjects as well—for instance, the schedule for transferring resources and constitutional responsibilities from Ottawa to Québec. These institutions will have to be discussed at the same time as other subjects, but since their role will be to manage the joint areas shared by Québec and Canada, they cannot be set up before there is an agreement about these joint areas, of which they will be the culminating point. Meanwhile, existing federal institutions will be maintained.

It cannot be ruled out, however, that certain existing federal institutions—the Bank of Canada, for instance—or other existing structures—such as certain interprovincial organizations,—may be modified, as least as far as Québec participation is concerned, so as to give them a community character.

In effect, setting up a monetary and economic union will be made easier by the fact that, within Canadian federalism, as we have mentioned, there already exists a free trade area, a common tariff towards other countries, and a single currency. From that point, the task will consist more in maintaining the union than in creating it, and from the outset it will be possible to rely on what already exists.

The Legal Equality of the Partners

However, the fact that there are only two partners, unequal demographically and economically, will certainly raise some difficulties in the course of the negotiations.

If, for the purposes of this presentation, it is taken for granted that Canada, maintaining its federal structure, is represented in the union by the Canadian central government, it is not impossible, however, that certain provinces will demand to be parties on the Canadian side of the association—to which, of course, Québec has no objection.

In an association between two partners, some fundamental subjects must naturally be subjected to parity, otherwise one of the parties would be at the mercy of the other. That does not mean, however, that in everyday practice everything will be subject to a double veto. Certain institutions of the union (the monetary authority, for instance) would, on the contrary, enjoy a large measure of autonomy of management. Their areas of action (such as customs and currency) are, in any case, subject to strong international constraints which, all told, leave little leeway. Taking into account a situation that is well established, in international trade and money matters, the search for parity should be no obstacle to the progress of the union.

It is perfectly possible, indeed, to provide for special cases where the predominant interest of one of the parties would be recognized: Canada could have a decisive voice insofar as wheat is concerned, and Québec in the area of asbestos. Thus there is a whole range of possibilities which will be the object of studies and negotiations according to the interests of each party. The fundamental legal equality of the partners does not rule out some flexibility in the manner in which the community will function. It is the negotiation of a treaty of association which, by establishing legal equality, will make it possible to discover the mechanisms best suited to ensuring the success of the whole association.

The operation of the union and its agencies will be financed by the contributions of each partner, and the method for drawing up the union budget and sharing the load will be determined by the treaty of association.

A Proposed Plan

The Québec government believes that, in general, it will be better to avoid increasing the number of community agencies, even if the areas composing the association are both numerous and important. This is why the government proposes only four community agencies which, in certain cases, could—as we have said—originate in existing federal institutions that will be adapted for the purposes of the association (such as the monetary authority or the court of justice).

The Québec government favours the establishment of four Québec-Canada agencies:

- **A community council**
- **A commission of experts**
- **A court of justice**
- **A monetary authority**

The **COUNCIL** will be made up of ministers from Québec and Canada acting on instructions from their respective governments. The representatives of Canada may be chosen by both Ottawa and the provinces. Chaired alternately by a Canadian and a Quebecer, the Council would meet at fixed dates, or according to need. It will have decision-making powers on matters entrusted to it by the treaty of association, and decisions pertaining to fundamental issues will require the agreement of both Québec and Canada. Negotiations after the Referendum will determine what questions are deemed to be fundamental. Some are already obvious: broadening the scope of the treaty of association or an increase in the terms of reference of community agencies for instance.

As for the **COMMISSION OF EXPERTS**, whose mandate will be defined by the treaty of association, it will be composed of Québec and Canadian specialists chosen for their competence and appointed for a limited period of time. It will act as the general secretariat of the community and will be subject to the guidelines of the council. In addition to supporting and advising the council members, it will be responsible for establishing technical liaison with the international bodies concerned in matters of customs and trade, and for negotiating the international agreements that will bind the community on those subjects. These agreements will then be approved and signed by the council of the community.

The **COURT OF JUSTICE** will comprise an equal number of judges appointed for a limited period of time by Québec and by Canada, and a chairman chosen jointly by the two States. It will have exclusive jurisdiction over the interpretation and implementation of the treaty of association; its decisions will be final and binding to both parties.

The central **MONETARY AUTHORITY** will be chaired alternately by a governor named by each government; the number of seats allocated to each party on the board of directors will be proportional to the relative size of each economy.

However the operation of this institution requires some explanation.

First, and despite the fact that Québec and Canada will have the same currency, it will be necessary to make certain changes in the central bank—which we now call the Bank of Canada—to take Québec sovereignty into account.

A central bank plays several roles, and it is important to examine them in order to distinguish between those that must remain joint and those that could be separated: its first role is the creation of money; its second is to act on the rate of exchange; the third consists in managing the placing and distribution of the public debt; the fourth, finally, whose importance varies from country to country, is to act as the government's banker, by opening an account for it through which transit all or part of government payments and deposits.

Since Canada and Québec will have a single currency, the first two functions must be joint: indeed, it is impossible to imagine that Canada would accelerate the creation of money, while Québec, fearing inflation, for example, was seeking to stabilize its money supply. The only result of such contradictory attitudes would be to cause the rate of interest to go down in Canada, and up in Québec: funds would move from Canada to Québec, so that the gap would close rapidly. For financial and money markets, in our time and in free countries, are like communicating vessels. Though it is possible to imagine certain disagreements concerning monetary policy between two countries that have a single currency, they cannot be very pronounced. In the same way, the rate of exchange for the dollar must come under a single authority, for it would be unthinkable that Canada seek to make it go down, while Québec was trying to make it go up.

The two other functions, on the other hand, can very well be distinct for each State. As a province, Québec has always had the right to manage its debt and direct its financial operations as it wished: there is no reason for it to lose these powers once it becomes sovereign.

If other formulas are equally possible, the following system can nevertheless be imagined: both Québec and Canada would have its own central bank, each one exercising the third and fourth functions of such an institution; for the exercise of the two first functions, those banks would be placed under the monetary authority, which would have decision-making powers and have a twofold jurisdiction over the two central banks: to determine the changes that each of them would make to the reserves of the chartered banks (and, if need be, savings and credit cooperatives) and the transactions that each would have on the foreign exchange market.

In case of conflict between the two governments on the orientation to be given monetary policy or foreign exchange policy, the community council would be called upon to examine the dispute and find a way to resolve it, since it would have the power to give guidelines to the monetary authority.

It may be useful to recall that the existence of several central banks, coordinated by a body with responsibility for overseeing monetary policy and foreign exchange policy, corresponds to the American formula which, however, differs from the formula proposed here insofar as in the United States, central banks are regional and cover the territory of several states that are not sovereign. The American experience nevertheless shows the possibility of conducting the operations of central banks at two different levels.

A Community Parliament?

Within certain associations of sovereign states, either an interparliamentary assembly formed of members chosen among the deputies elected to the parliaments of the member states, or a parliament elected directly by the population are sometimes found. Nowhere, however, do such assemblies have legislative powers or powers of taxation that they can increase on their own initiative.

In Europe, after many years, a European parliament with limited responsibilities has finally been created; its members are elected directly by the populations of the participating countries. Some people have concluded, from this particular experience by the Common Market, that Europe was heading toward a federal system similar to what Canada now has. This is not the case: the similarities between the European parliament and the House of Commons in Ottawa are very few, and their respective powers are not comparable. Moreover, taking into account the increasing number of members in the European Community and the obvious desire of member states not to alienate their national sovereignty, it would be rash to claim that the Europe of tomorrow will be federal, when there is nothing to indicate that it is entering on such a road.

In any case, the Québec government does not think it is advisable to propose establishing a parliamentary assembly, believing instead that it is preferable for the members of the Community Council to remain, politically, responsible to the parliament where they sit; this will enable the democratic control we are familiar with to be extended in this way to the functioning of the Québec-Canada community itself.

If the rest of Canada proposed an interparliamentary assembly, formed of members chosen among the members elected to the parliaments of the member states, the Québec government would have no objection to examining this proposal.

Sovereignty-Association: a Means

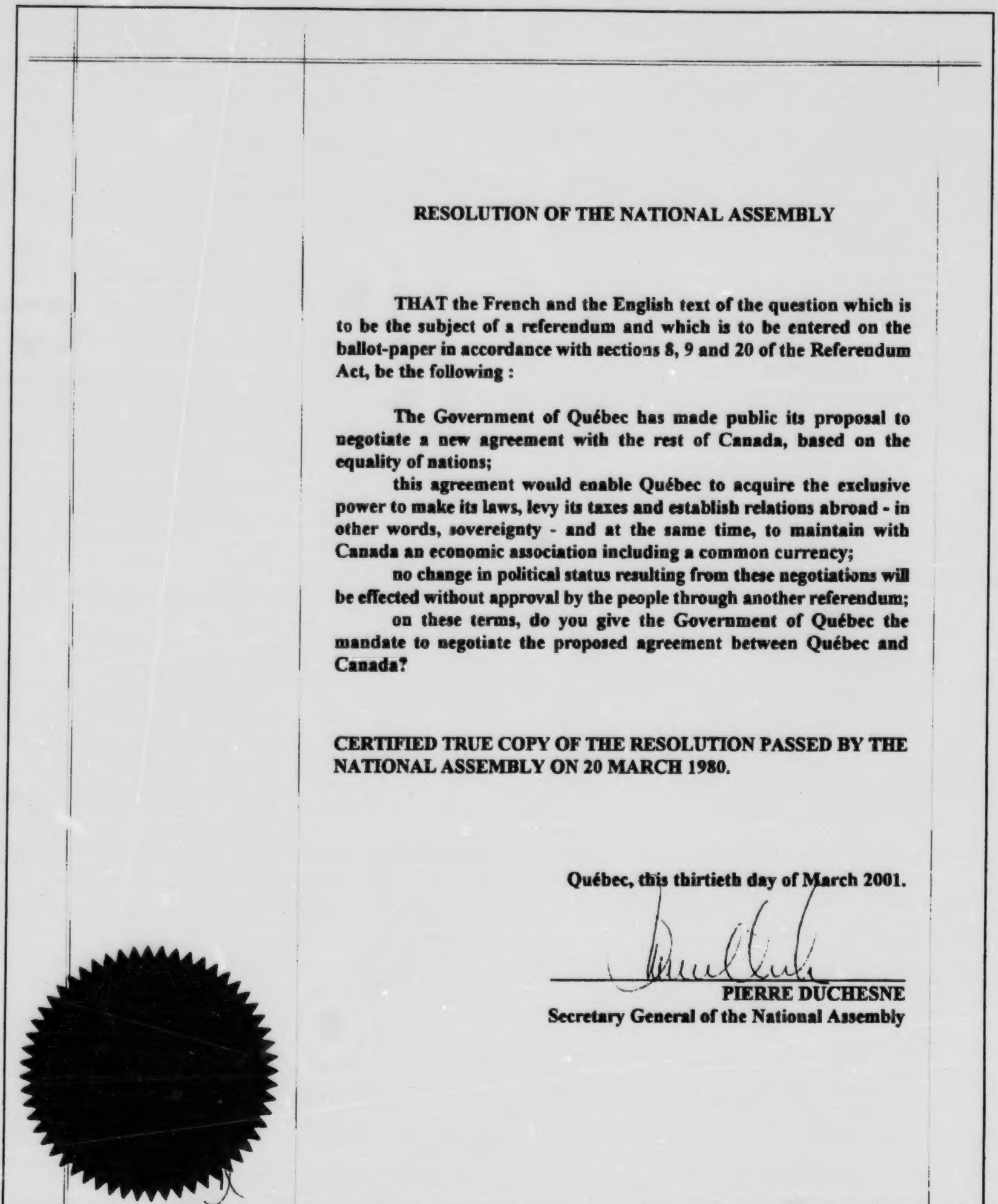
The outline of sovereignty-association that we have just set forth does not, admittedly, answer every question this formula might pose in terms of certain specific areas. This is why we will in another chapter evoke the perspectives for the future which sovereignty-association will open to Québec in the areas of economic, cultural and social policy, as well as in its relations with the world.

For the time being, it is important to remember that if, from the government's point of view, sovereignty-association is a necessary formula for the future, its necessity comes above all from the fact that it will enable Quebecers to manage their own affairs freely and use as they wish the instruments sovereignty will give them.

Sovereignty-association, in short, is not an end in itself, but a means.

DOCUMENT 12

The 1980 referendum question and an extract of the Official Report of the Directeur général des élections (results).



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the French and the English text of the question which is to be the subject of a referendum and which is to be entered on the ballot-paper in accordance with sections 8, 9 and 20 of the Referendum Act, be the following :

The Government of Québec has made public its proposal to negotiate a new agreement with the rest of Canada, based on the equality of nations;

this agreement would enable Québec to acquire the exclusive power to make its laws, levy its taxes and establish relations abroad - in other words, sovereignty - and at the same time, to maintain with Canada an economic association including a common currency;

no change in political status resulting from these negotiations will be effected without approval by the people through another referendum;

on these terms, do you give the Government of Québec the mandate to negotiate the proposed agreement between Québec and Canada?

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 20 MARCH 1980.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

[Translation]

The Directeur général des élections du Québec

TOTAL VOTES RECORDED FOR BOTH OPTIONS

Province wide	Number of electors registered on the list	The YES Option	The NO Option	Number of valid votes	Number of ballots rejected	Majority in favour of the No option
	I	II	III	IV	V	VI
GRAND TOTAL :	4,367,584	1,485,851	2,187,991	3,673,842	65,012	702,140
% of people who exercised their right to vote :				85.61% (1)		
% of people who registered valid votes				98.26% (2)		
% of ballots rejected					1.74% (3)	
% of the vote in favour of the YES option		40.44% (4)				
% of the vote in favour of the NO option			59.56% (5)			

The calculation was done as follows :

(1) $\frac{IV + V \times 100}{I}$

(2) $\frac{IV \times 100}{IV + V}$

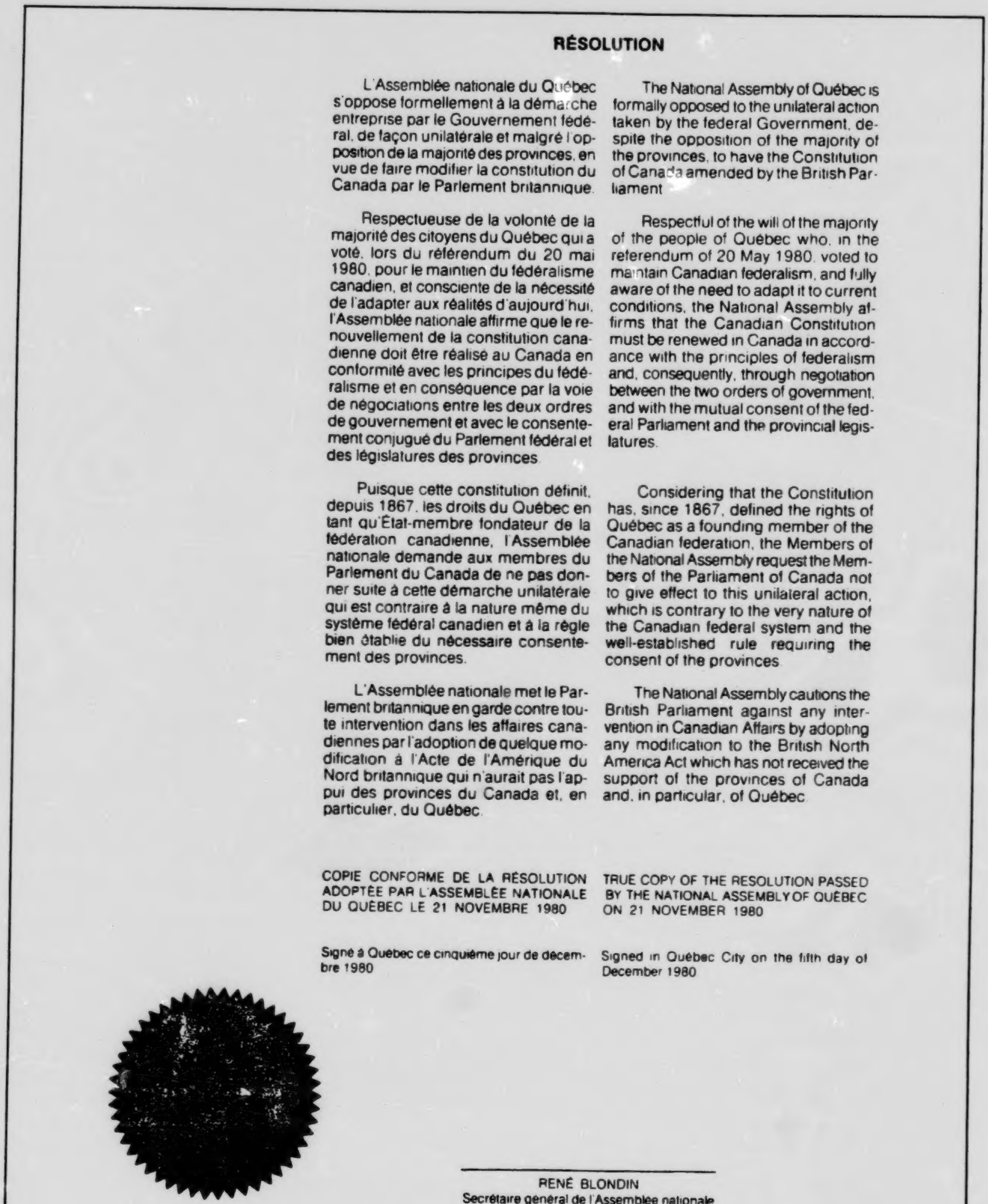
(3) $\frac{V \times 100}{IV + V}$

(4) $\frac{II \times 100}{IV}$

(5) $\frac{III \times 100}{IV}$

DOCUMENT 13

Resolution of the Québec National Assembly regarding the unilateral patriation of the Canadian Constitution, November 21, 1980.



RÉSOLUTION

L'Assemblée nationale du Québec s'oppose formellement à la démarche entreprise par le Gouvernement fédéral, de façon unilatérale et malgré l'opposition de la majorité des provinces, en vue de faire modifier la constitution du Canada par le Parlement britannique.

Respectueuse de la volonté de la majorité des citoyens du Québec qui a voté, lors du référendum du 20 mai 1980, pour le maintien du fédéralisme canadien, et consciente de la nécessité de l'adapter aux réalités d'aujourd'hui, l'Assemblée nationale affirme que le renouvellement de la constitution canadienne doit être réalisé au Canada en conformité avec les principes du fédéralisme et en conséquence par la voie de négociations entre les deux ordres de gouvernement et avec le consentement conjugué du Parlement fédéral et des législatures des provinces.

Puisque cette constitution définit, depuis 1867, les droits du Québec en tant qu'État-membre fondateur de la fédération canadienne, l'Assemblée nationale demande aux membres du Parlement du Canada de ne pas donner suite à cette démarche unilatérale qui est contraire à la nature même du système fédéral canadien et à la règle bien établie du nécessaire consentement des provinces.

L'Assemblée nationale met le Parlement britannique en garde contre toute intervention dans les affaires canadiennes par l'adoption de quelque modification à l'Acte de l'Amérique du Nord britannique qui n'aurait pas l'appui des provinces du Canada et, en particulier, du Québec.

The National Assembly of Québec is formally opposed to the unilateral action taken by the federal Government, despite the opposition of the majority of the provinces, to have the Constitution of Canada amended by the British Parliament.

Respectful of the will of the majority of the people of Québec who, in the referendum of 20 May 1980, voted to maintain Canadian federalism, and fully aware of the need to adapt it to current conditions, the National Assembly affirms that the Canadian Constitution must be renewed in Canada in accordance with the principles of federalism and, consequently, through negotiation between the two orders of government, and with the mutual consent of the federal Parliament and the provincial legislatures.

Considering that the Constitution has, since 1867, defined the rights of Québec as a founding member of the Canadian federation, the Members of the National Assembly request the Members of the Parliament of Canada not to give effect to this unilateral action, which is contrary to the very nature of the Canadian federal system and the well-established rule requiring the consent of the provinces.

The National Assembly cautions the British Parliament against any intervention in Canadian Affairs by adopting any modification to the British North America Act which has not received the support of the provinces of Canada and, in particular, of Québec.

COPIE CONFORME DE LA RÉSOLUTION ADOPTÉE PAR L'ASSEMBLÉE NATIONALE DU QUÉBEC LE 21 NOVEMBRE 1980

Signé à Québec ce cinquième jour de décembre 1980

TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY OF QUÉBEC ON 21 NOVEMBER 1980

Signed in Québec City on the fifth day of December 1980

RENÉ BLONDIN
Secrétaire général de l'Assemblée nationale

DOCUMENT 14

Constitutional Accord, Canadian Patriation Plan, April 16, 1981 (accord signed by the provinces, except Ontario and New Brunswick).

CONSTITUTIONAL ACCORD
CANADIAN PATRIATION PLAN

OTTAWA

April 16, 1981.

CONSTITUTIONAL ACCORD

CANADIAN PATRIATION PLAN

WHEREAS Canada is a mature and independent country with a federal system of government,

AND WHEREAS the Parliament of the United Kingdom has retained, at the request of the Parliament of Canada and with the approval of the Provinces, residual power to amend certain parts of the British North America Acts upon receiving a proper request from Canada,

AND WHEREAS it is fitting and proper for the Constitution of Canada to be amendable in all respects by action taken wholly within Canada,

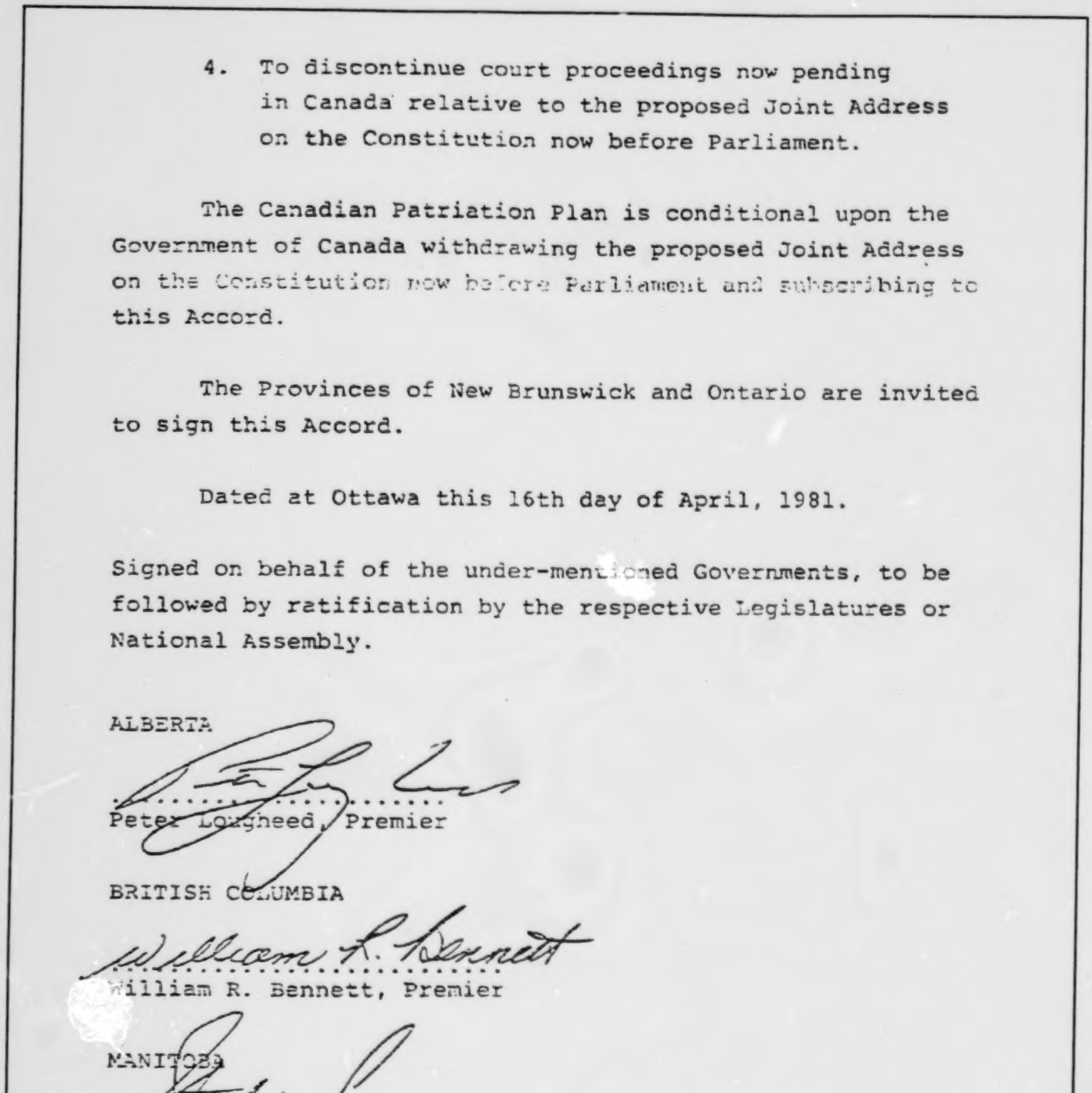
AND WHEREAS the full exercise of the sovereignty of Canada requires a Canadian amending procedure in keeping with the federal nature of Canada,

NOW THEREFORE, the Governments subscribing to this Accord agree as follows:

1. To patriate the Constitution of Canada by taking the necessary steps through the Parliament of Canada and the Legislatures of the Provinces;

2. To accept, as part of patriation, the amending formula attached to this Accord as the formula for making all future amendments to the Constitution of Canada

3. To embark upon an intensive three-year period of constitutional renewal based on the new amending formula and without delay to determine an agenda following acceptance of this Accord; and



4. To discontinue court proceedings now pending in Canada relative to the proposed Joint Address on the Constitution now before Parliament.

The Canadian Patriation Plan is conditional upon the Government of Canada withdrawing the proposed Joint Address on the Constitution now before Parliament and subscribing to this Accord.

The Provinces of New Brunswick and Ontario are invited to sign this Accord.

Dated at Ottawa this 16th day of April, 1981.

Signed on behalf of the under-mentioned Governments, to be followed by ratification by the respective Legislatures or National Assembly.

ALBERTA

....
Peter Lougheed, Premier

BRITISH COLUMBIA

William R. Bennett
....
William R. Bennett, Premier

MANITOBA

Sterling Lyon
....
Sterling R. Lyon, Premier

NEWFOUNDLAND

....
Brian A. Peckford, Premier

NOVA SCOTIA

....
John M. Buchanan, Premier

PRINCE EDWARD ISLAND

....
J. Angus MacLean, Premier

QUÉBEC

....
René Lévesque, Premier

SASKATCHEWAN

....
Allan E. Blakeney, Premier

SIGNED ON BEHALF OF THE GOVERNMENTS OF:

NEW BRUNSWICK

....
Richard B. Hatfield, Premier

ONTARIO

....
William G. Davis, Premier

ACCEPTED ON BEHALF OF THE GOVERNMENT OF CANADA:

....
Pierre E. Trudeau, Prime Minister

PART A

AMENDING FORMULA FOR THE CONSTITUTION OF CANADA

(1) Amendments to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by:

(a) resolutions of the Senate and House of Commons; and

(b) resolutions of the Legislative Assemblies of at least two-thirds of the provinces that have in the aggregate, according to the latest decennial census, at least fifty per cent of the population of all of the provinces.

(2) Any amendment made under subsection (1) derogating from the legislative powers, the proprietary rights or any other rights or privileges of the Legislature or government of a province shall require a resolution supported by a vote of a majority of the Members of each of the Senate, of the House of Commons, and of the requisite number of Legislative Assemblies.

(3) Any amendment made under subsection (1) derogating from the legislative powers, the proprietary rights, or any other rights or privileges of the Legislature or government of a Province shall not have effect in any province whose Legislative Assembly has expressed its dissent thereto by resolution supported by a majority of the Members prior to the issue of the proclamation, provided, however, that Legislative Assembly, by resolution supported by a majority of the Members, may subsequently withdraw its dissent and approve the amendment.

2. (1) No proclamation shall issue under section 1 before the expiry of one year from the date of the passage of the resolution initiating the amendment procedure, unless the Legislative Assembly of every province has previously adopted a resolution of assent or dissent.

(2) No proclamation shall issue under section 1 after the expiry of three years from the date of the passage of the resolution initiating the amendment procedure.

(3) Subject to this section, the Government of Canada shall advise the Governor General to issue a proclamation forthwith upon the passage of the requisite resolutions under this Part.

3. In the event that a province dissents from an amendment conferring legislative jurisdiction on Parliament, the Government of Canada shall provide reasonable compensation to the government of that province, taking into account the per capita costs to exercise that jurisdiction in the provinces which have approved the amendment.

4. Amendments to the Constitution of Canada in relation to any provision that applies to one or more, but not all, of the provinces, including any alteration to boundaries between provinces or the use of the English or the French language within that province may be made only by proclamation issued by the Governor General under the Great Seal of Canada when so authorized by resolutions of the Senate and House of Commons and the Legislative Assembly of every province to which the amendment applies.

5. An amendment may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the passage by the House of Commons of a resolution authorizing its issue, the Senate has not passed such a resolution and if, after the expiration of those one hundred and eighty days, the House of Commons again passed the resolution, but any period when Parliament is dissolved shall not be counted in computing the one hundred and eighty days.

6. (1) The procedures for amendment may be initiated by the Senate, by the House of Commons, or by the Legislative Assembly of a province.

(2) A resolution authorizing an amendment may be revoked at any time before the issue of a proclamation.

(3) A resolution of dissent may be revoked at any time before or after the issue of a proclamation.

7. Subject to sections 9 and 10, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

8. Subject to section 9, the Legislature of each province may exclusively make laws amending the constitution of the province.

9. Amendments to the Constitution of Canada in relation to the following matters may be made only by proclamation issued by the Governor General under the Great Seal of

Canada when authorized by resolutions of the Senate and House of Commons and of the Legislative Assemblies of all of the provinces:

(a) the office of the Queen, of the Governor General or of the Lieutenant Governor;

(b) the right of a province to a number of members in the House of Commons not less than the number of Senators representing the province at the time this provision comes into force;

(c) the use of the English or French language except with respect to section 4;

(d) the composition of the Supreme Court of Canada;

(e) an amendment to any of the provisions of this Part.

10. Amendments to the Constitution of Canada in relation to the following matters shall be made in accordance with the provisions of section 1(1) of this Part and sections 1(2) and 1(3) shall not apply.

(a) the principle of proportionate representation of the provinces in the House of Commons;

(b) the powers of the Senate and the method of selection of members thereto;

(c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(d) the Supreme Court of Canada, except with respect to clause (d) of section 9;

(e) the extension of existing provinces into the Territories;

(f) notwithstanding any other law or practice, the establishment of new provinces;

(g) an amendment to any of the provisions of Part B.

11. A constitutional conference composed of the Prime Minister of Canada and the First Ministers of the provinces shall be convened by the Prime Minister of Canada within fifteen years of the enactment of this Part to review the provisions for the amendment of the Constitution of Canada.

6.

PART B

DELEGATION OF LEGISLATIVE AUTHORITY

1. Notwithstanding anything in the Constitution of Canada, Parliament may make laws in relation to a matter coming within the legislative jurisdiction of a province, if prior to the enactment, the Legislature of at least one province has consented to the operation of such a statute in that province.

2. A statute passed purusant to section 1 shall not have effect in any province unless the Legislature of that province has consented to its operation.

3. The Legislature of a province may make laws in the province in relation to a matter coming within the legislative jurisdiction of Parliament, if, prior to the enactment, Parliament has consented to the enactment of such a statute by the Legislature of that province.

4. A consent given under this Part may relate to a specific statute or to all laws in relation to a particular matter.

5. A consent given under this Part may be revoked upon giving two years' notice, and

   (a) if the consent was given under section 1, any law made by Parliament to which the consent relates shall thereupon cease to have effect in the province revoking the consent, but the revocation of the consent does not affect the operation of that law in any other province;

(b) if the consent was given under section 3, any law made by the Legislature of a province to which the consent relates shall thereupon cease to have effect.

6. In the event of a delegation of legislative authority from Parliament to the Legislature of a province, the Government of Canada shall provide reasonable compensation to the government of that province, taking into account the *per capita* costs to exercise that jurisdiction.

7. In the event of a delegation of legislative authority from the Legislature of a province to Parliament, the government of the province shall provide reasonable compensation to the Government of Canada, taking into account the *per capita* costs to exercise that jurisdiction.

DOCUMENT 15

Resolution of the Québec National Assembly regarding the unilateral patriation of the Canadian Constitution, October 2, 1981.

RÉSOLUTION

La Cour suprême du Canada ayant décidé que le projet fédéral concernant la Constitution du Canada réduit les pouvoirs de l'Assemblée nationale du Québec et que l'action unilatérale du gouvernement fédéral bien que légale est inconstitutionnelle parce que contraire aux conventions, cette Assemblée réclame du gouvernement fédéral qu'il renonce à sa démarche unilatérale, s'oppose à tout geste qui pourrait porter atteinte à ses droits et affecter ses pouvoirs sans son consentement, et demande au gouvernement fédéral et à ceux des provinces qu'ils reprennent sans délai les négociations dans le respect des principes et des conventions qui doivent régir les modifications du régime fédéral canadien.

The Supreme Court of Canada having decided that the federal proposal respecting the Constitution of Canada decreases the powers of the National Assembly of Québec and that unilateral action by the federal government, although legal, is unconstitutional, being contrary to the conventions, this Assembly demands that the federal government renounce its unilateral course of action, is opposed to any action that could impair its rights and affect its powers without its consent, and requests the federal and provincial governments to resume negotiations immediately, with full respect for the principles and conventions that must apply to any modification of the Canadian federal system.

COPIE CONFORME DE LA RÉSOLUTION ADOPTÉE PAR L'ASSEMBLÉE NATIONALE DU QUÉBEC LE 2 OCTOBRE 1981.

Signé à Québec ce septième jour d'octobre 1981.

TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY OF QUEBEC ON 2 OCTOBER 1981.

Signed in Québec City on the seventh day of October 1981.

René Blondin

RENÉ BLONDIN
Secrétaire général de l'Assemblée nationale

DOCUMENT 16

Constitutional Accord of November 5, 1981, concluded without the participation of Québec.

November 5, 1981

In an effort to reach an acceptable consensus on the constitutional issue which meets the concerns of the federal government and a substantial number of provincial governments, the undersigned governments have agreed to the following:

(1) Patriation

(2) Amending Formula:

- Acceptance of the April Accord Amending Formula with the deletion of Section 3 which provides for fiscal compensation to a province which opts out of a constitutional amendment.
- The Delegation of Legislative Authority from the April Accord is deleted.

(3) Charter of Rights and Freedoms:

- The entrenchment of the full Charter of Rights and Freedoms now before Parliament with the following changes:

(a) With respect to Mobility Rights the inclusion of the right of a province to undertake affirmative action programs for socially and economically disadvantaged individuals as long as a province's employment rate was below the National average.

(b) A "notwithstanding" clause covering sections dealing with Fundamental Freedoms, Legal Rights and Equality Rights. Each "notwithstanding" provision would require reenactment not less frequently than once every five years.

(c) We have agreed that the provisions of Section 23 in respect of Minority Language Education Rights will apply to our provinces.

Le 5 novembre 1981

Dans un effort pour en arriver à un consensus acceptable sur la question constitutionnelle qui satisfasse les préoccupations du gouvernement fédéral et d'un nombre important de gouvernments provinciaux, les soussignés se sont entendus sur les points suivants:

(1) Le rapatriement de la Constitution

(2) La formule d'amendement

- La formule d'amendement proposée dans l'Accord d'avril a été acceptée en supprimant l'article 3, qui prévoit une compensation fiscale à une province qui se retire d'un amendement constitutionnel.
- La délégation de pouvoirs législatifs prévue dans l'Accord d'avril est supprimée.

(3) La Charte des droits et libertés

- La Charte complète des droits et libertés soumise au Parlement sera inscrite dans la Constitution avec les modifications suivantes:

(a) En ce qui concerne la liberté de circulation et d'établissement, il y aura inclusion du droit d'une province à mettre en oeuvre des programmes d'action en faveur des personnes socialement et économiquement désavantagées tant que le taux d'emploi de cette province demeurera inférieur à la moyenne nationale.

(b) Une clause "nonobstant" s'appliquera aux articles qui traitent des libertés fondamentales, des garanties juridiques et des droits à l'égalité. Toute disposition "nonobstant" devrait être adoptée de nouveau au moins tous les cinq ans.

(c) Nous sommes convenus que l'article 23, qui a trait au droit à l'instruction dans la langue de la minorité, s'appliquera dans nos provinces.

... 2

(4) The provisions of the Act now before Parliament relating to Equalization and Regional Disparities, and Non Renewable Natural Resources, Forestry Resources and Electrical Energy would be included.

(5) A constitutional conference as provided for in clause 36 of the Resolution, including in its agenda an item respecting constitutional matters that directly affect the Aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, shall be provided for in the Resolution. The Prime Minister of Canada shall invite representatives of the Aboriginal peoples of Canada to participate in the discussion of that item.

(4) Les dispositions du projet actuellement à l'étude au Parlement qui ont trait à la péréquation et aux inégalités régionales ainsi qu'aux ressources non renouvelables, aux ressources forestières et à l'énergie électrique seraient incluses.

(5) Sera prévue dans la Résolution la conférence constitutionnelle mentionnée à l'article 36 de la Résolution et son ordre du jour inclura les questions constitutionnelles qui intéressent directement les peuples autochtones du Canada, notamment la détermination et la définition des droits de ces peuples à inscrire dans la Constitution du Canada Le Premier ministre du Canada invitera leurs représentants à participer aux travaux relatifs à ces questions.

... 3

Dated at Ottawa this 5th day of November, 1981.

Fait à Ottawa le 5 novembre 1981.

CANADA/POUR LE CANADA

....
Pierre Elliott Trudeau
Prime Minister of Canada/
Premier ministre du Canada

ONTARIO/POUR L'ONTARIO

William Davis
....
William G. Davis, Premier/
Premier ministre

NOVA SCOTIA/POUR LA NOUVELLE-ECOSSE

Edmund L. Morris
....
John M. Buchanan, Premier/
Premier ministre

NEW BRUNSWICK/POUR LE NOUVEAU-BRUNSWICK

Richard B. Hatfield
....
Richard B. Hatfield, Premier/
Premier ministre

MANITOBA/POUR LE MANITOBA

Subject to approval of section 3(c) by the Legislative Assembly of Manitoba

...for Lyon...................
Sterling R. Lyon, Premier/
Premier ministre

Sujet à l'approbation de l'article 3(c) par l'assemblée législative du Manitoba

BRITISH COLUMBIA/POUR LA COLOMBIE-BRITANNIQUE

William R. Bennett.
William R. Bennett, Premier/
Premier ministre

PRINCE EDWARD ISLAND/POUR L'ILE-DU-PRINCE-EDOUARD

J Angus MacLean
....
J. Angus MacLean, Premier/
Premier ministre

.... 4

SASKATCHEWAN/POUR LA SASKATCHEWAN

Allan Blakeney
....
Allan E. Blakeney, Premier/
Premier ministre

ALBERTA/POUR L'ALBERTA

....
Peter Lougheed, Premier/
Premier ministre

NEWFOUNDLAND/POUR TERRE-NEUVE

A. Brian Peckford.
....
Brian A. Peckford, Premier/
Premier ministre

DOCUMENT 17

Order-in-Council No. 3214-81 regarding Québec's opposition to the project for patriating and amending the Canadian Constitution, November 25, 1981.

[Translation]

ORDER-IN-COUNCIL

GOVERNEMENT OF QUÉBEC

NUMBER 3214-81 REGARDING Québec's opposition to the project for patriating and amending the Canadian Constitution

---0000000---

WHEREAS the federal government has tabled before the House of Commons on November 18, 1981 a motion seeking to patriate and amend the Canadian Constitution;

WHEREAS this motion, if accepted, would substantially diminish the powers and rights of Québec and its National Assembly without its consent;

WHEREAS it has always been recognized that no amendment of such nature could be made without the consent of Québec.

IT IS DECIDED, upon a motion by the Prime Minister:

THAT Québec formally exercise its veto against the resolution tabled before the House of Commons on November 18, 1981 by the federal Minister of Justice.

THAT this opposition be officially transmitted to the federal government and the provincial governments.

René Lévesque
(Signature)

Approved on this 25th day of November 1981

ADMINISTRATOR
(Signature)

DOCUMENT 18

Resolution of the Québec National Assembly on the conditions without which Québec cannot accept the patriation of the Canadian Constitution, December 1, 1981.

RÉSOLUTION

L'Assemblée nationale du Québec,

rappelant le droit du peuple québécois à disposer de lui-même,

et exerçant son droit historique à être partie prenante et à consentir à tout changement dans la constitution du Canada qui pourrait affecter les droits et les pouvoirs du Québec,

déclare qu'elle ne peut accepter le projet de rapatriement de la constitution sauf si celui-ci rencontre les conditions suivantes:

1. on devra reconnaître que les deux peuples qui ont fondé le Canada sont foncièrement égaux et que le Québec forme à l'intérieur de l'ensemble fédéral canadien une société distincte par la langue, la culture, les institutions et qui possède tous les attributs d'une communauté nationale distincte;

2. le mode d'amendement de la constitution

a) ou bien devra maintenir au Québec son droit de veto,

b) ou bien sera celui qui a été convenu dans l'Accord constitutionnel signé par le Québec le 16 avril 1981 et confirmant le droit du Québec de ne pas être assujetti à une modification qui diminuerait ses pouvoirs ou ses droits et de recevoir, le cas échéant, une compensation raisonnable et obligatoire;

3. étant donné l'existence de la Charte québécoise des droits et libertés de la personne, la charte des droits inscrite dans la constitution canadienne ne devra inclure que:

The National Assembly of Québec,

mindful of the right of the people of Québec to self-determination,

and exercising its historical right of being a full party to any change to the Constitution of Canada which would affect the rights and powers of Québec,

declares that it cannot accept the plan to patriate the Constitution unless it meets the following conditions:

1. It must be recognized that the two founding peoples of Canada are fundamentally equal and that Québec, by virtue of its language, culture and institutions, forms a distinct society within the Canadian federal system and has all the attributes of a distinct national community.

2. The constitutional amending formula

(a) must either maintain Québec's right of veto, or

(b) be in keeping with the Constitutional Accord signed by Québec on April 16, 1981 whereby Québec would not be subject to any amendment which would diminish its powers or rights, and would be entitled, where necessary, to reasonable and obligatory compensation.

3. Given that a Charter of Human Rights and Freedoms is already operative in Québec, the Charter of Rights and Freeedoms to be entrenched in the Canadian Constitution must limit itself to:

a) les droits démocratiques;

b) l'usage du français et de l'anglais dans les institutions et les services du gouvernement fédéral;

c) l'égalité entre les hommes et les femmes, pourvu que l'Assemblée nationale conserve le pouvoir de faire prévaloir ses lois dans les domaines de sa compétence;

d) les libertés fondamentales, pourvu que l'Assemblée nationale conserve le pouvoir de faire prévaloir ses lois dans les domaines de sa compétence;

e) les garanties quant à l'enseignement dans la langue des minorités anglaise ou française, pourvu que le Québec reste libre d'y adhérer volontairement, puisque sa compétence exclusive en cette matière doit demeurer totale et inaliénable et que la situation de sa minorité est déjà la plus privilégiée au Canada;

4. on donnera suite aux dispositions déjà prévues dans le projet du gouvernement fédéral concernant le droit des provinces à la péréquation et à un meilleur contrôle de leurs richesses naturelles.

(a) democratic rights;

(b) use of French and English in federal government institutions and services;

(c) equality between men and women, provided the National Assembly retains the power to legislate in matters under its jurisdiction;

(d) fundamental freedoms provided the National Assembly retains the power to legislate in matters under its jurisdiction; and

(e) English and French minority language guarantees in education, provided Québec is allowed to adhere voluntarily, considering that its power in this area must remain total and inalienable, and that its minority is already the most privileged in Canada.

4. Effect must be given to the provisions already prescribed in the federal proposal in respect of the right of the provinces to equalization and to better control over their natural resources.

COPIE CONFORME DE LA RÉSOLUTION ADOPTÉE PAR L'ASSEMBLÉE NATIONALE DU QUÉBEC LE 1er DÉCEMBRE 1981.

Signé à Québec ce dix-septième jour de décembre 1981.

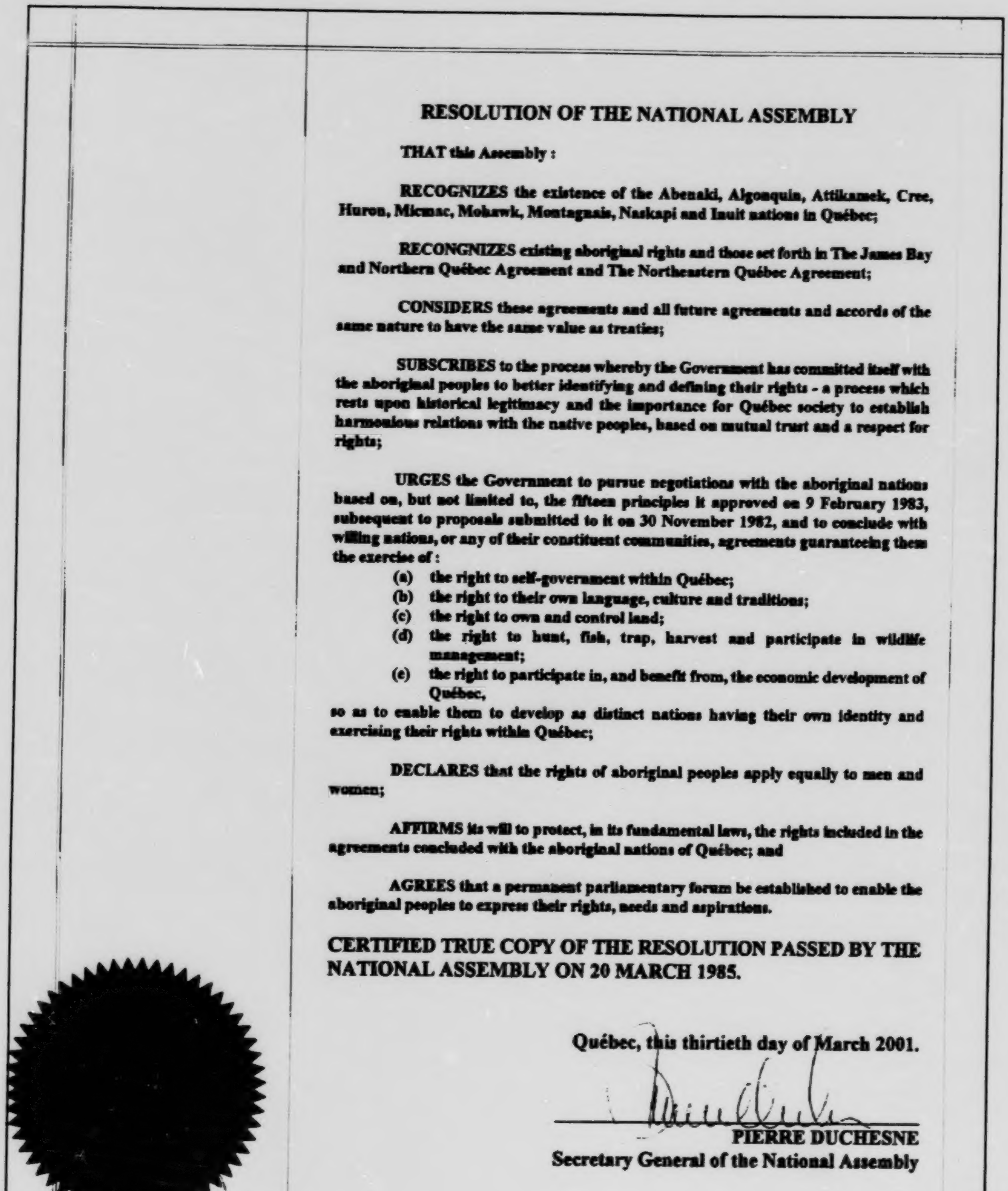
TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY OF QUEBEC ON 1 DECEMBER 1981.

Signed in Québec City on the seventeenth day of December 1981.

RENÉ BLONDIN
Secrétaire général de l'Assemblée nationale

DOCUMENT 19

Resolution of the Québec National Assembly dated March 20, 1985 on the recognition of existing aboriginal rights and the resolution dated May 30, 1989 recognizing the existence of the Maliseet Nation.



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT this Assembly :

RECOGNIZES the existence of the Abenaki, Algonquin, Attikamek, Cree, Huron, Micmac, Mohawk, Montagnais, Naskapi and Inuit nations in Québec;

RECONGNIZES existing aboriginal rights and those set forth in The James Bay and Northern Québec Agreement and The Northeastern Québec Agreement;

CONSIDERS these agreements and all future agreements and accords of the same nature to have the same value as treaties;

SUBSCRIBES to the process whereby the Government has committed itself with the aboriginal peoples to better identifying and defining their rights - a process which rests upon historical legitimacy and the importance for Québec society to establish harmonious relations with the native peoples, based on mutual trust and a respect for rights;

URGES the Government to pursue negotiations with the aboriginal nations based on, but not limited to, the fifteen principles it approved on 9 February 1983, subsequent to proposals submitted to it on 30 November 1982, and to conclude with willing nations, or any of their constituent communities, agreements guaranteeing them the exercise of :

(a) the right to self-government within Québec;
(b) the right to their own language, culture and traditions;
(c) the right to own and control land;
(d) the right to hunt, fish, trap, harvest and participate in wildlife management;
(e) the right to participate in, and benefit from, the economic development of Québec,

so as to enable them to develop as distinct nations having their own identity and exercising their rights within Québec;

DECLARES that the rights of aboriginal peoples apply equally to men and women;

AFFIRMS its will to protect, in its fundamental laws, the rights included in the agreements concluded with the aboriginal nations of Québec; and

AGREES that a permanent parliamentary forum be established to enable the aboriginal peoples to express their rights, needs and aspirations.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 20 MARCH 1985.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the National Assembly recognize the existence in Québec of the Maliseet Nation on the same footing as the ten other aboriginal nations already recognized in the National Assembly's resolution of 20 March 1985.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 30 MAY 1989.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 20

***Draft Agreement on the Constitution, Proposals by the government of Québec,* May 1985, and the correspondence between Messrs. René Lévesque, Prime Minister of Québec, and Brian Mulroney, Prime Minister of Canada, regarding these proposals.**

[Translation]

May 16, 1985

Mr. Brian Mulroney
Prime Minister of Canada
Langevin Building
Ottawa (Ontario) K1A OA2

Dear Mr. Prime Minister,

Upon your election as Prime Minister of Canada, you immediately reiterated your desire to see Québec reach a constitutional agreement with the rest of Canada with enthusiasm and honour.

I answered you by stating that we too also wish to reach an agreement with Canada in an honourable and dignified manner. Hence, through the offices of Mr. Louis Bernard I am sending to you the constitutional proposals that the government of Québec has retained and that I will publicly disclose tomorrow.

I would be delighted to discuss them with you, more specifically with regard to the steps that must be taken in order to initiate a process that will lead us to reaching the constitutional agreement that we both wish to achieve.

Until then, the senior offices of our government are at your representatives' disposal if the federal government decides it needs further information or specific explanations.

Cordially yours,

René Lévesque
(Signature)

[Translation]

May 27, 1985

Dear Mr. Premier,

I appreciate having personally received the copy of the Constitutional Agreement Project from the government of Québec.

I have looked the document over and it contains serious proposals that deserve being examined in depth. Please rest assured that this examination will take place shortly with an open mind and a continuous view for seeking the superior interests of Québec and Canada.

Once we have more completely grasped the basis of the Québec proposals, we will be in a position to advise on the "process susceptible to lead us to reaching the constitutional agreement that we both wish to achieve", as you have set forth in your letter dated May 16th.

Mr. René Lévesque,
Premier of Québec,
Hôtel du Gouvernement,
Québec (Québec).
G1A 1A2

Once more, I wish to thank you for the consideration that you showed by having a copy of the proposals handed to me personally. And I wish on my behalf to assure you that these proposals will be treated with all the seriousness and attention that they deserve.

Sincerely,

Brian Mulroney
(Signature)

[Translation]

June 4, 1985

Mr. Brian Mulroney
Prime Minister of Canada
Hôtel du Gouvernement
OTTAWA, Ontario

Dear Mr. Prime Minister,

I wish to thank you for your letter dated last May 27th regarding the government of Québec's Constitutional Agreement Project.

Like yourself, I do indeed believe that our Agreement Project contains proposals that deserve close examination. I have already taken note with interest of a recent statement on your part concerning the "obviously distinct" character of Québec. You have demonstrated an open-minded approach that is a positive omen for future developments.

In this vein, during our telephone conversation last Friday, we dwelt upon the possibility of having a meeting at your earliest possible convenience with the hope that you will make known your preliminary views regarding both the content of our proposals and the process to be followed in order to reach the agreement we are seeking.

Sincerely,

René Lévesque
(Signature)

DRAFT AGREEMENT ON THE CONSTITUTION

Proposals by the Government of Québec

Québec

The French version of this document is the official government version.

The following is a translation.

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Table of Contents

Introduction 5

Part One:
Recognition of the Existence of the People of Québec 9

Part Two:
The Conditions for an Agreement 13

Chapter I:
Recognition of the Primary Authority of Québec in the Matter of Rights and Freedoms 17

1. Québec's Responsibility for Language Rights 17
2. Acceptance of the Primary of the Québec Charter of Human Rights and Freedoms 21

Chapter II:
Modification of the Constitutional Amendment Procedure 23

1. Recognition of a Power of Veto over Federal Institutions and the Creation of New Provinces 23
2. Modification of the Division of Powers 24

Chapter III:
Conditions for Participation 25

1. The Revision of the Distribution of Powers 26
    a) The Restriction and the Elimination of Certain Unilateral Powers of the Federal Parliament 26
    b) Adapting the Division of Powers to the Needs of Québec 27
2. Reform of Judicial System 30
    a) Québec's Participation in the Appointment of Judges to the Supreme Court of Canada 31
    b) The Attribution of Authority over the Appointment of Judges to the Québec Superior Courts 31
3. The Need for an Ongoing Process of Negotiations 32

Conclusion 35

Introduction

Québec was not a party to the constitutional Accord of November 1981, which led to the patriation of the Canadian Constitution and to its amendment in some essential respects.

Québec rejected this Accord and refused to acknowledge its legitimacy, because it was negotiated and concluded without its participation.

The Canada Act 1982 would be acceptable only if we could reach a new constitutional agreement with the rest of Canada, restoring to us our rights, recognizing the distinctiveness of our people and launching an in-depth review meeting our aspirations and our needs.

The present situation is viable neither for Canada nor for Québec. A federation cannot operate for the benefit of its citizens without the active participation of one of its major partners, just as Québec can never be satisfied with the diminished status imposed upon it. We must seek an opportunity to remedy this situation.

We believe that this opportunity has been afforded us by the election last September of a new government in Ottawa. It will be recalled that during the election campaign, the new Prime Minister of Canada not only recognized the reality of the problem, but also solemnly committed himself to resolving it:

> *"I know that, in the Province of Québec, there are wounds to be healed, worries to be calmed, enthusiasms to be rekindled, and bonds of trust to be established. (...)*
>
> *I know that many men and women in Québec will not be satisfied with mere words. We will have to make commitments and take concrete steps to reach the objective that I have set for myself and that I repeat here: to convince the Québec National Assembly to give its consent to the new Canadian Constitution with honour and enthusiasm."*
>
> (Notes for an address by the Honourable Brian Mulroney, P.C., M.P., Sept-Îles, 6 August 1984.).

This undertaking was reaffirmed at the opening of the Canadian Parliament last November 1:

> *"Ultimately such a new consensus must be reflected in the fundamental law of our land, for it is obvious that the constitutional agreement is incomplete so long as Québec is not part of an accord. While their principal obligations are to achieve economic renewal, my Ministers will work to create the conditions that will make possible the achievement of this essential accord. In this work, the cooperation of all partners in Confederation will be necessary."*
>
> (Speech from the Throne, Hansard, 5 November 1984, p. 6)

The Government of Québec, which had already insisted that the question be reopened, saw in these commitments an expression of good faith leading to new dialogue with real opportunities for both correcting the past and brightening the future. It thereupon agreed to reassess its attitude and formulate its requirements — and since then, has worked diligently to that end.

The Government of Québec has sought to fulfil that task faithfully and realistically. Its proposals follow in the tradition of all previous Québec governments and go beyond party lines; they are intended to respond to the concrete needs of our fellow citizens, yet without ignoring the future. These proposals take into account the new Canadian political environment. They are substantive proposals, submitted initially for consideration by Quebeckers and also for consideration by the other governments with the objective of concluding an agreement resulting from negotiations conducted in good faith.

These proposals, it will be seen, fit into the federal framework of the present Constitution. They are intended to improve it in such a way that the people of Québec may, as long as they so decide, find in it the most favourable conditions possible for their development. It goes without saying that they in no way alter the inalienable right of the people of Québec to democratic self-determination with regard to its constitutional future.

In developing these proposals, we have taken into account the requirements formulated by the National Assembly in its Resolution of 1 December 1981. We have also taken into consideration the recommendations of those who, as with the Pepin-Robarts Commission, have made an in-depth study of this question, as well as recommendations made recently by other interested parties in Québec.

Finally, we have based ourselves on requests made by our predecessors who, for over twenty years, have taken part in the long exercise of constitutional review — unfortunately, without much success.

Over and above redressing the wrongs caused Québec in 1981, in reopening this question, we are, as has been the case for almost twenty years, seeking constitutional structures adapted as much as possible to the changing reality of Québec and Canada.

In order to seize the new opportunity provided us to get things moving again, in initiating this process, the Government of Québec has duly noted the changes that have taken place in Québec and Canada. However, it is of the greatest importance that it be clearly understood what constitutes, today as yesterday, and regardless of the government of the day, the very essence of Québec's concern: the distinct character of the people of Québec and the legitimacy of the legal and institutional instruments derived therefrom.

Part One

Recognition of the Existence of the People of Québec

Recognition of the Existence of the People of Québec

The recognition of the existence of a people of Québec is an essential prerequisite in Québec's agreement and participation in a new constitutional relation. The present constitution acknowledges the Canadian duality only through the concept of institutionalized bilingualism. It makes no mention of the particular needs that flow from the differences between the people of Québec and the population of the rest of Canada.

During recent years, constraints have quickly appeared when Québec wanted to ensure the conformity of its development with the legitimate aspirations of its population in the fields of manpower, income security, communications, international cooperation, or the protection, affirmation and development of the French fact, to name but a few. It is necessary to understand fully that the Québec positions on these matters (which we shall discuss later) have been drawn up in accordance with the needs and aspirations peculiar to the people of Québec. These positions embody the various ways whereby the men and women of Québec express the conditions they consider essential for their fullest development.

The Pepin-Robarts Commission recommended not only that the distinctiveness of Québec be recognized, but also that Québec be permitted to determine its official language and that it be granted the necessary powers to assume its particular responsibility with respect to the French heritage within its own territory.

The recognition of Québec's distinctiveness alone is meaningless, unless it is matched with provisions that give it substance; it must also be reflected in content, which is the basis of the following chapters. This recognition of Québec's distinctiveness constitutes an essential step in the coherence of the undertaking.

To sum up, the Governement of Québec proposes:

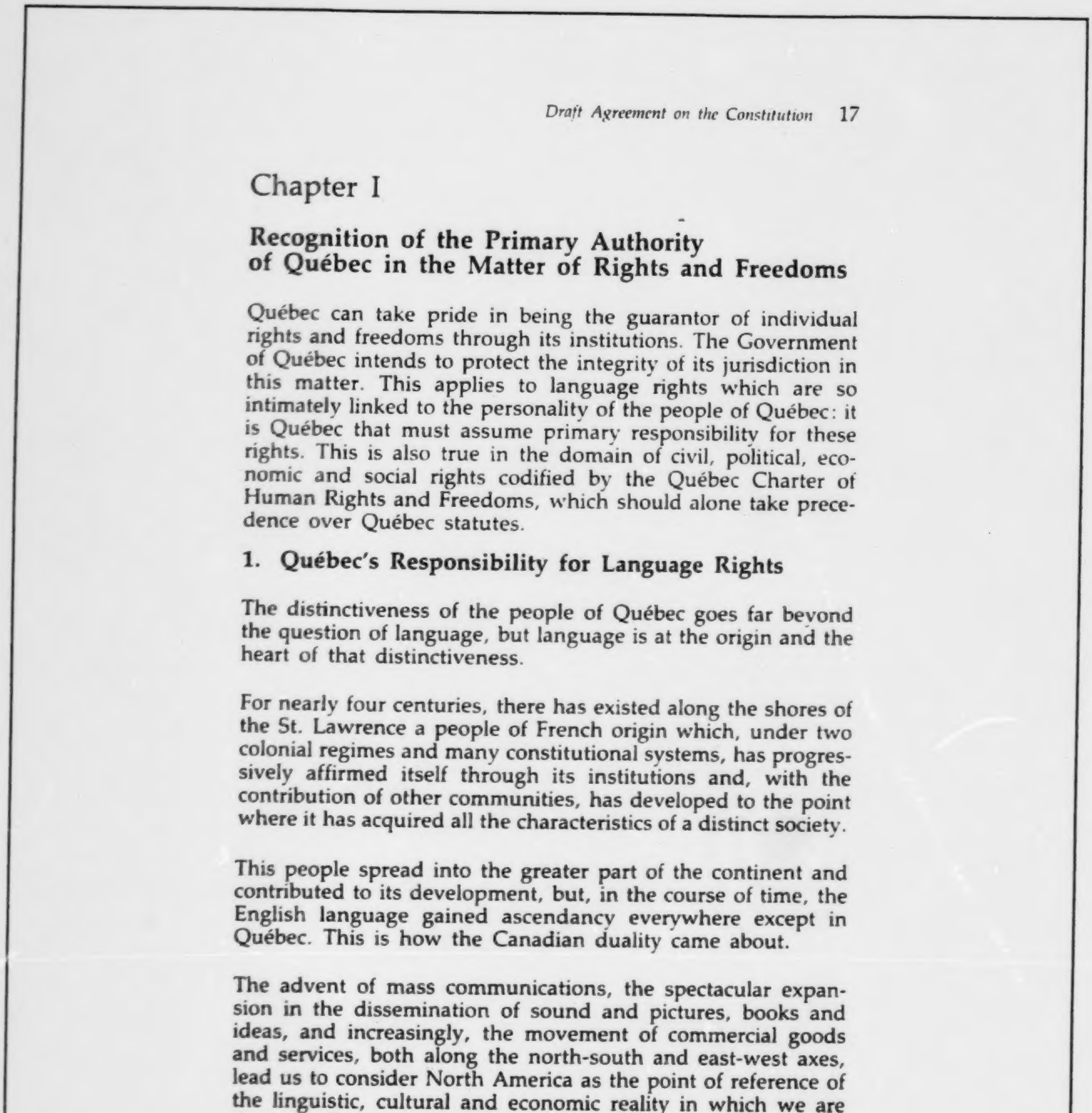
- That the Constitution explicitly recognize the existence of a people of Québec.

Part Two

The Conditions for an Agreement

The Conditions for an Agreement

Once the existence of the people of Québec is recognized in the Canadian Constitution, Québec stands ready to conclude a new accord, insisting upon certain conditions. Québec will consider itself party to the agreement if its primary authority in the matter of rights and freedoms is recognized, if the rest of Canada agrees to modify the amending formula to grant Québec satisfactory guarantees, and if agreement is reached on the terms of Québec's participation.



Chapter I

Recognition of the Primary Authority of Québec in the Matter of Rights and Freedoms

Québec can take pride in being the guarantor of individual rights and freedoms through its institutions. The Government of Québec intends to protect the integrity of its jurisdiction in this matter. This applies to language rights which are so intimately linked to the personality of the people of Québec: it is Québec that must assume primary responsibility for these rights. This is also true in the domain of civil, political, economic and social rights codified by the Québec Charter of Human Rights and Freedoms, which should alone take precedence over Québec statutes.

1. Québec's Responsibility for Language Rights

The distinctiveness of the people of Québec goes far beyond the question of language, but language is at the origin and the heart of that distinctiveness.

For nearly four centuries, there has existed along the shores of the St. Lawrence a people of French origin which, under two colonial regimes and many constitutional systems, has progressively affirmed itself through its institutions and, with the contribution of other communities, has developed to the point where it has acquired all the characteristics of a distinct society.

This people spread into the greater part of the continent and contributed to its development, but, in the course of time, the English language gained ascendancy everywhere except in Québec. This is how the Canadian duality came about.

The advent of mass communications, the spectacular expansion in the dissemination of sound and pictures, books and ideas, and increasingly, the movement of commercial goods and services, both along the north-south and east-west axes, lead us to consider North America as the point of reference of the linguistic, cultural and economic reality in which we are evolving. French-speaking persons today constitute scarcely 2 per cent of the North American population. At a ratio of fifty to one, specific measures are required to protect French as the everyday language. This fact is self-evident if we consider the case of the French-speaking communities outside Québec and it also holds true in Québec, even though more than 80 % of its people are French-speaking.

The interests of French-speaking Quebeckers are akin to those of French-speaking communities outside Québec. For Quebeckers, the assimilation of French-speaking communities outside Québec is a loss to, and a dangerous weakening of, the French-speaking cultural mainstream. For their part, the French-speaking minorities in the other provinces recognize the importance of the vitality of the Québec French fact for the maintenance of their cultural and linguistic identity.

Although there are interests common to both, the means required to promote them differ according to the context. The Québec context is quite different from that of the other provinces with regard to language. Recognition of this reality is a prerequisite to the development of solutions which penalize neither group.

Thus, in the opinion of French-speaking communities outside Québec, section 23 of the Canada Act 1982 offers a means, insufficient in itself though it be, for protecting their rights. That section was designed to ensure protection of the linguistic rights of a minority and is, therefore, suited to their reality. On the other hand, the effect of section 23 in Québec is to neutralize certain measures adopted by the National Assembly of Québec to ensure the survival, affirmation and development of the French identity in the face of the enormous linguistic pressure placed upon it by the North American environment, and to which these measures were designed to act as a counterweight.

Québec is the only North American territory where the linguistic, cultural and economic concerns of the French-speaking population are predominant. Therefore, Québec legitimately claims confirmation of its powers in linguistic matters.

We take into account, however, that the people of Québec is not entirely composed of French-speaking citizens. The English language community, the ethnic communities and the native peoples have rights and, over and above their individual and particular rights, they have a more general right of access to all the resources society makes available to everyone.

In the past, Québec experienced certain periods of tension with regard to language matters. That tension bespoke the concern of the French-speaking population over its future, particularly in regard to the means of ensuring the survival of French over the long term which appeared to be clearly insufficient. In spite of these periods, a climate of tolerance and respect in the treatment of minorities has generally prevailed in the search for affirmation of the French character of Québec. In that respect we quote from the Pepin-Robarts Commission Report:

> *"We also expect that the rights of the English-speaking minority in the areas of education and social services would continue to be respected. These rights, and this should be stressed, are not now guaranteed by the Canadian constitution. Yet they are recognized under Bill 101, the charter of the French language, a law passed by a Parti Québécois government. Thus, we already have proof that the rights of the English-speaking community in Québec can be protected, without any constitutional obligation, and that the governments of Québec are quite capable of reconciling the interest of the majority with the concerns of the minority."*
>
> (The Task Force on Canadian Unity, *A Future Together*, Observations and Recommendations, January 1979, pp. 52-53)

Québec intends to fulfill its responsibilities to its minorities: to continue to actively promote their rights and to give them the means necessary to exercise them.

With regard to the English-speaking community, the Government of Québec is ready to undertake, within this new framework, to enshrine in its laws the right of the English-speaking minority to receive health care and social services in its own language, as well as its right to its own cultural and educational institutions.

The Government of Québec is also ready to amend the Charter of the French language to secure access to the English school system for the children of those who have received their primary instruction in Canada in English; it expects in return that *throughout Canada* those who benefit from section 23 will be able in actual fact to avail themselves of access to the French school system.

Québec also intends to fully support the French-speaking communities outside Québec. The Government of Québec is prepared to cooperate actively with any provincial government that wishes to improve the services it provides to its French-speaking minority. It is rather by way of intergovernmental cooperation than by the sole authority of the Constitution that progress can be achieved.

To sum up, the Government of Québec proposes:

- That the Constitution recognize that Québec has the exclusive right to determine its official language and to legislate on any linguistic matter within its jurisdiction.
- That Québec secure the right of the English-speaking minority to its cultural and educational institutions, as well as the right to receive health care and social services in its own language.
- That the Québec Charter of the French Language be so amended that the children of those who have received their primary instruction in Canada in English be guaranteed access to the English school system, regardless of their number.
- That throughout Canada, those who are eligible for instruction in French may in fact avail themselves of the rights guaranteed by Section 23 of the Canadian Charter of Rights and Freedoms.
- That to support the development of the French-speaking minorities outside Québec, agreements of mutual assistance be signed between the governments concerned.

2. Acceptance of the Primacy of the Québec Charter of Human Rights and Freedoms

In 1975 the people of Québec gave itself a Charter of Human Rights and Freedoms which is one of the most complete and generous there is.

A charter of rights and freedoms is the finest instrument for the affirmation of the values held by a people. It reflects both its most fundamental beliefs and the often difficult choices and decisions that a society is called upon to make. It secures to each person the minimal conditions for the exercise of his freedoms. It reflects, therefore, the framework in which individuals evolve as a collectivity. As such, and taking into consideration the distinctiveness of the people of Québec, it is not a matter of indifference as to whether it should be the Québec Charter or the Canadian Charter that should apply to the laws of Québec.

The Québec Charter is more generous than the Canadian Charter. It provides not only for civil and political rights, as does the Canadian Charter, but also for economic and social rights. Furthermore, the Québec Charter applies not only, as does the Canadian Charter, to relations between the State and the citizen, but also to relations between private persons. Moreover, it grants the right to equality and protection against discrimination in a way that is explicitly more extensive. Citizens have accessible and effective means of remedy against infringement of their rights through the Québec Charter. It recognizes the recourse of action for damages as well as injunctions. It also innovates in allowing the Courts to grant exemplary damages. The Charter also allows citizens to address the Commission des droits de la personne (Human Rights Commission) in the case of discrimination, one of the most important sources of litigation when it comes to rights and freedoms.

In reality, there is no essential difference between the Charter included in the Canadian Constitution and the Québec Charter as to the level of protection they both grant. Both charters prevail over the laws of Québec and, in this sense, both have a special status. Also, each includes an exception clause ("notwithstanding" clause) conferring on both the federal Parliament and the National Assembly the power to expressly override their fundamental provisions by a majority vote of their members. The power to override the constitutional Charter is the same, therefore, for all the Canadian legislatures with respect to the Canadian Charter and is exercised in essentially the same way as for the Québec Charter.

In the event of its being amended, the Canadian Charter is subject to the constraints and uncertainty of the constitutional amendment procedure in which the other provinces play a preponderant role.

As for the Québec Charter, it has a quasi-constituional status and gives the ultimate responsibility in the affirmation of human rights and freedoms to the Québec legislature, elected by and responsible to the population for the proper functioning of society. The people of Québec is fully aware of its own distinctiveness; it possesses its own democratic institutions. It must take responsibility for rights and freedoms and ensure their evolution and extension within Québec without being constrained by a structure over which it has very little control. The inclusion of a charter in a constitution entails certain guarantees, but it is meaningful only to the extent where it is the people immediately concerned who determine its content and scope, which, for instance, would be the case if the Québec Charter were to be included in a Québec Constitution.

That is why the only Canadian constitutional limitations to which Québec has never objected and by which it agrees to be bound relate precisely to the political rights which ensure the proper functioning of our democratic system.

To sum up, Québec proposes:

- That only sections 3 to 5 of the Charter included in the Canadian Constitution which guarantee democratic rights continue to bind Québec without the National Assembly being able to make exceptions thereto.
- That Québec be empowered to subordinate its own laws only to the Québec Charter of Human Rights and Freedoms.

Chapter II

Modification of the Constitutional Amendment Procedure

1. Recognition of a Power of Veto over Federal Institutions and the Creation of New Provinces

With respect to federal institutions, namely the Senate and the Supreme Court, and the creation of new provinces with the exception of the composition of the Supreme Court, — which cannot be modified without the unanimous consent of the provinces — the consent of seven (7) provinces representing at least 50 % of the Canadian population is required to modify key elements of the Senate and the Supreme Court, and the representation in the House of Commons, as well as the establishment of new provinces.

This formula is a major improvement over what previously existed because most of these matters were formerly within the exclusive jurisdiction of the federal Parliament. The Government of Québec believes, however, that it must hold a power of veto over any change that could affect the role of Québec in these federal institutions, particularly over the composition of these institutions and their powers, as well as over the method of appointment of the persons called to be members thereof, and also over the creation of new provinces.

To sum up, the Government of Québec proposes:

- That Québec be recognized as having a power of veto over modifications of federal institutions and the establishment of new provinces.

2. Modification of the Division of Powers

The Resolution adopted on 1 December 1981 by the National Assembly requested that the method of constitutional amendment be modified either to grant Québec a power of veto or to secure to it a reasonable and mandatory compensation in all cases of non-participation in a constitutional amendment. The Government of Québec believes that this alternative must be maintained and it is ready to discuss it with the other governments.

In fact, each of these two formulas guarantees what is essential for Québec: that none of its powers can be taken away from it without its consent. The formula of non-participation with compensation, however, offers the additional advantage of flexibility.

To sum up, the Government of Québec proposes:

- That the present method of constitutional amendment be modified either to grant Québec a power of veto or to secure it a reasonable and mandatory compensation in the event of non-participation in a constitutional amendment.

Chapter III

Conditions for Participation

If redress of the wrongs caused Québec by the enactment without its consent of the Canada Act 1982 is imperative, it is also a prerequisite to the real participation of Québec in the Canadian federation. That participation will be ensured if the legitimate claims of Québec are satisfied as an outcome of constitutional negotiations which Québec intends to pursue in good faith, as it has done in the past, with its partners in the federation.

One cannot expect to achieve a new in-depth constitutional arrangement overnight. But, based on the numerous constitutional discussions of the past, it would be possible to reach a significant constitutional consensus which would result in agreements. On several points, these would settle the constitutional dispute between Québec and the rest of Canada and open the way to better participation in the work of the federation as well as to a continuous adaptation to the changes thereto which are bound to occur.

For Québec, the division of powers has always been and still is at the centre of the constitutional debate. The proposals which follow envisage a better division of powers. Such a division will be fair only if there is an adjustment, indeed an elimination of certain excessive powers of the federal Parliament. Futhermore, the division of constitutional powers should be adapted to the particular needs of the people of Québec. Certain judicial institutions should be reformed to better suit them to the new context.

1. The Revision of the Distribution of Powers

To ensure that its citizens have the services best suited to their needs, to avoid costly duplication and guarantee the efficacy of its actions, Québec must be able to exercise its existing constitutional powers without limitation and it must obtain increased powers in order to freely ensure its economic, social and cultural development.

a) The Restriction and the Elimination of Certain Unilateral Powers of the Federal Parliament

The unlimited use made by the federal Parliament of its spending power has distorted the division of powers codified in the Constitution.

The successive governments of Québec have always denounced the unrestrained use of this excessive power which has become one of the main causes of the dissatisfaction of Quebeckers with Canadian federalism.

However, Québec does not dispute the legitimacy of certain uses of the federal spending power and has particularly supported the use of it to combat disparities between the regions of Canada through unconditional grants. On the other hand, Québec has always opposed the use of spending power when the federal government has used it to intervene in areas outside its jurisdiction, such as in municipal affairs, health and education.

The Government of Québec proposes a two-tier structure for the limitation of the exercise of the spending power. First, conditional grants to the provinces should be, as the federal government itself suggested in 1969, subject to the prior consent of a majority of provinces. In addition, any province that refuses these grants should receive fair compensation.

In matters of education and culture, the federal government has used its spending power to create State corporations and make grants to individuals and institutions, thereby intruding in areas that are characteristic of Québec's distinctiveness. Limits should be imposed on such interventions by major readjustments. Starting immediately, payments to individuals and institutions should not be made unless they have been the subject of prior agreement with the Government of Québec.

If the spending power can thus remain, the contrary holds true for the powers of disallowance and reservation still constitutionally held by the federal government. They are the residue of a colonial heritage whose obsolescence is today universally recognized. These powers no longer have any place in the Constitution. Moreover, the federal government committed itself in the past to abolishing them once the Constitution had been patriated, and Québec considers their abolition overdue.

To sum up, the Government of Québec proposes:

- That the federal spending power be limited in such a way that conditional grants to the provinces be subject to the consent of a majority of provinces, that any non-participating province be entitled to compensation, and that grants to individuals and institutions working in the areas of culture and education be submitted for approval by the Government of Québec.
- That the powers of disallowance and reservation be abolished.

b) Adapting the Division of Powers to the Needs of Québec

The benefits that will result from the limitation of the spending power and the abolition of the powers of disallowance and reservation are not sufficient. The special responsibilities of the Government of Québec in the economic, cultural and social fields can only be fulfilled if the division of powers is suited to the needs of Québec and its population. The present constitutional division of powers in economic matters must be reviewed and certain powers already held by Québec in the social and cultural domains as well as in the international domain must be increased.

The Government of Québec believes that policy-making authority in economic development and manpower must be defined in greater detail.

First, the Government of Québec insists that it should have the primary responsibility for the formulation and implementation of general economic policy in Québec. Québec considers itself responsible for its economic progress as well as the direction it can give to its overall development and especially that of its regions.

The economy in general will always remain a shared responsibility in a federation; however, as the Government of Québec stated at the economic conference held in Regina, the federal government should recognize that it is up to the provinces to first define the type of development which best suits them. General prosperity will be enhanced if the provinces are more dynamic. The Government of Québec insists, therefore, that its primary responsibility be recognized in the matter of the general direction of its economic development and that of its regions.

The same holds true for manpower policy which includes the placement, retraining and vocational training of workers. In the implementation of its policy on adult training, its apprenticeship policy, its back-to-work programs and its job creation policies, Québec has felt as never before the urgent necessity of achieving a better integration of manpower related activities, a goal which at present eludes it. Even though efforts have been made to minimize the disadvantages, there is a duplication of services in this area which is costly and inefficient. Quebeckers would be better served by a better integrated system; that, in effect, is what the great majority of organizations representing workers, employers and other concerned groups in Québec consulted on this subject believe.

And that is why the Government of Québec insists on holding the powers and resources such responsibility entails.

Furthermore, powers should be added which, even though they pertain to culture, will nevertheless have important economic repercussions. These are powers dealing with immigration and communications.

The Constitution should enlarge upon the Cullen-Couture Agreement of 1978 by confirming the paramountcy of Québec's powers in the matter of selection, and by extending that paramountcy to the integration and settlement of immigrants. These powers are of fundamental importance because it is upon their exercise that, among other things, the preservation and consolidation of the district character of the people of Québec depends.

With respect to communications, an increase in the powers of Québec in this area is in line with the common position taken by the Canadian provinces, a position in which the present federal government might wish to concur. Indeed, the negotiation of a redistribution of powers in this area would likely find support among the various governments. It should extend to the communications sector in general which would be of singular importance to Québec in terms of identity as well as cultural security.

Another field on which there has been a provincial consensus as to jurisdiction is the area of marriage and divorce. This jurisdiction should be transferred to Québec given its evident local and private nature.

The Government of Québec also reiterates certain longstanding claims in the field of international relations. It, therefore, asserts the following claims which it considers to be justified in view of the distinct character of the people of Québec.

The presence of Québec as a participant government in international organizations of the "Francophonie" is essential. This status of participant government is already granted to Québec within the framework of the "Agence de coopération culturelle et technique" and should be envisaged in the case of the planned "Sommet Francophone" and in what will result therefrom. Québec's presence in other international organizations relating to its jurisdictions should also be provided for in a suitable way.

To sum up, the Government of Québec proposes:

- That the primary responsibility of Québec over the general field of manpower with all the powers and resources such responsibility entails be confirmed.
- That the primary responsibility of Québec for the formulation and implementation of its general policy of economic development, including regional development, be recognized.
- That the paramount jurisdiction of Québec in the matter of selection and settlement of immigrants in Québec be recognized.
- That Québec be granted a significant increase in powers pertaining to communications.
- That Québec be granted exclusive jurisdiction in the matter of marriage and divorce.
- That in international matters, recognition be given to the specific situation of Québec in all that relates to its jurisdictions and its identity, particularly within the framework of the "Francophonie".

---

2. Reform of the Judicial System

The importance of the judicial process makes it necessary that Québec play a decisive role in the process of appointment of the judges of the Supreme Court of Canada. With regard to Québec Courts and administrative tribunals, the exercise of Québec's jurisdiction over the administration of justice is hampered by section 96 of the Constitution Act of 1867 which must be reassessed in further constitutional talks.

With the increased importance of the Courts in recent years, and in particular since the advent of charters of rights and freedoms, Québec's traditional stand in this matter takes on an even greater legitimacy.

a) Québec's Participation in the Appointment of Judges to the Supreme Court of Canada

The Government of Québec considers that it must be consulted in the appointment of the three judges from Québec. Even though the power of appointing Québec judges to the Supreme Court may in principle belong to the federal government, consultation with the Government of Québec should be formalized and its consent required.

The representation of Québec on the Supreme Court already provided for by federal statute as well as the principle of alternation in the appointment of the Chief Justice should be explicitly entrenched in the Constitution.

Apart from the composition of the Supreme Court, the distinctiveness of Québec should also be reflected in the jurisdiction of the Courts and of their judges. Specifically, the Government considers that questions of civil law should only be decided by judges from Québec, trained in its law.

To sum up, the Government of Québec proposes:

- That the Constitution explicitly recognize that three of the nine judges of the Supreme Court of Canada come from Québec, as well as the principle of alternation in the appointment of the Chief Justice.
- That the Constitution recognize the right of the Government of Québec to participate in the appointment of Québec judges to the Supreme Court of Canada and that its consent be obtained before their appointment.
- That judges from Québec trained in its law have sole authority in matters of civil law.

---

b) The Attribution of Authority over the Appointment of Judges to the Québec Superior Courts

While Québec does not require exclusive jurisdiction over the process of appointment of its judges on the Supreme Court, it requires such jurisdiction over the appointment of judges to the Québec Court of Appeal and Superior Court.

It is important to correct forthwith the anachronism of a constitutional procedure whereby the federal government appoints judges who are part of the Québec judicial system and are subject to the authority of Québec under section 92 (14) of the Constitution Act of 1867.

This situation should be remedied by instituting a procedure of appointment whereby Québec would have the authority over the appointment of judges with the obligation of prior consultation with the federal government. Indeed, it is desirable that the latter be part of the appointment process in view of the fact that the Québec superior Courts must apply many federal statutes.

It is therefore expedient to amend section 96 of the Constitution Act of 1867 to grant the Government of Québec the power to appoint judges to the Québec superior Courts.

To sum up, the Government of Québec proposes:

- That section 96 of the Constitution Act of 1867 be amended so as to recognize the authority of Québec to appoint judges to the Québec superior Courts following consultation with the federal government.

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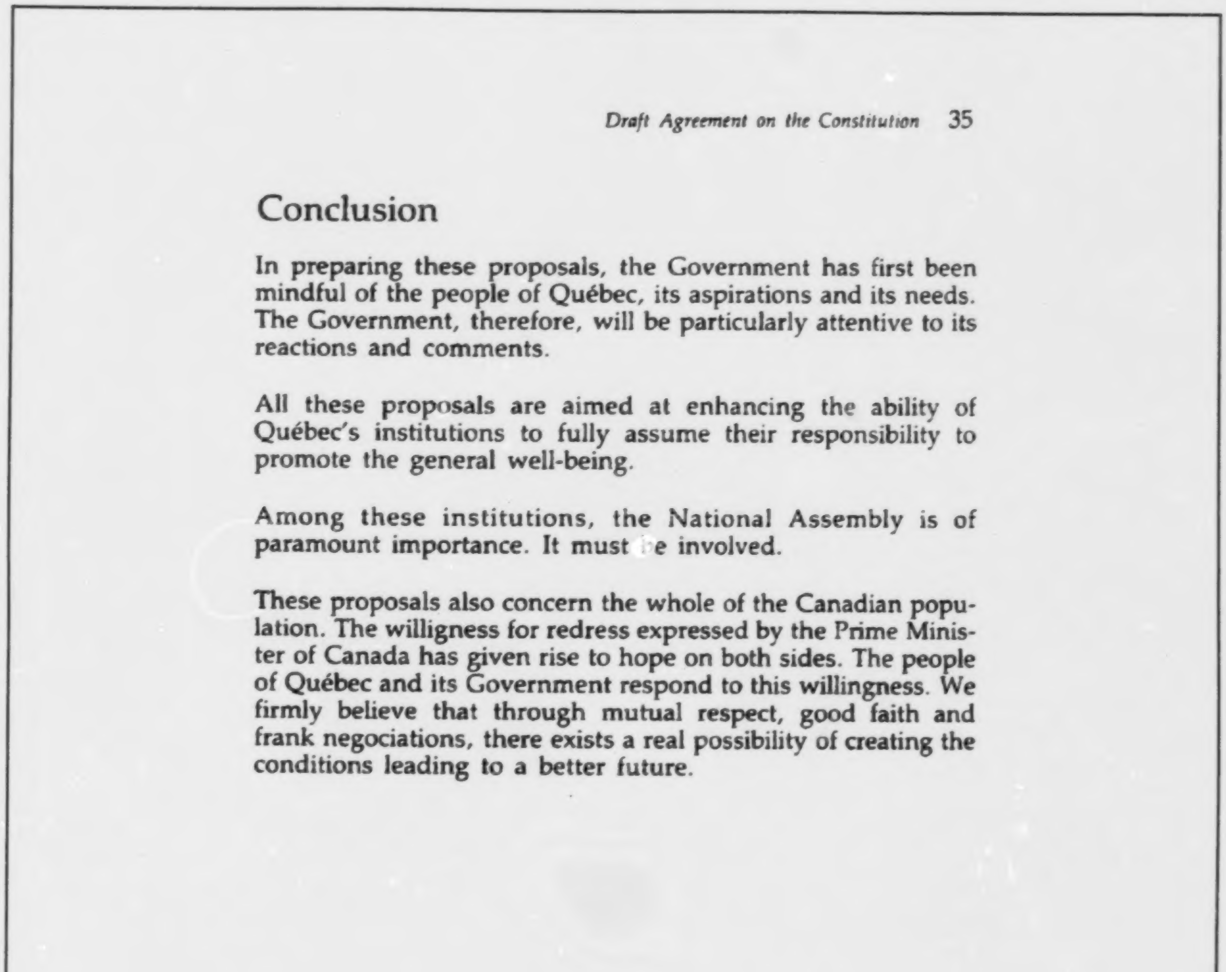
3. The Need for an Ongoing Process of Constitutional Negotiations

Constitutional discussions should be reopened with the clear understanding that a comprehensive review of the Constitution must eventually be proceeded with. The process that is beginning will only be truly meaningful if it includes key elements which evidence a new spirit of dialogue.

Québec's propositions are designed to generate a new impetus for profound change in the Constitution.

The Government of Québec believes that over and above the conditions of a new accord, the solemn commitment of the governments to pursue constitutional review must be obtained forthwith.

During this review process, Québec would like to see, in addition to the proposals set out in this document, other aspects of the division of powers addressed, particularly the residual and declaratory powers of the federal Parliament, as well as questions relating to income security and certain other dimensions of international relations. Québec also would want the reform of the central institutions, especially the Senate, to be proceeded with.



Conclusion

In preparing these proposals, the Government has first been mindful of the people of Québec, its aspirations and its needs. The Government, therefore, will be particularly attentive to its reactions and comments.

All these proposals are aimed at enhancing the ability of Québec's institutions to fully assume their responsibility to promote the general well-being.

Among these institutions, the National Assembly is of paramount importance. It must be involved.

These proposals also concern the whole of the Canadian population. The willigness for redress expressed by the Prime Minister of Canada has given rise to hope on both sides. The people of Québec and its Government respond to this willingness. We firmly believe that through mutual respect, good faith and frank negociations, there exists a real possibility of creating the conditions leading to a better future.

DOCUMENT 21

Agreement between the government of Québec and the government of Canada pertaining to the Francophone Summit on November 7, 1985.

[Translation]

Québec , November 7, 1985

Mr. Brian Mulroney
Prime Minister of Canada
Langevin Building
OTTAWA, Ontario
KIA OA2

Dear Mr. Prime Minister:

I have carefully reviewed the draft project between the governments of Québec and Canada regarding the upcoming Francophone Summit, the text of which was drafted by our senior officers during their recent series of meetings.

It is my honour to hereby confirm with you that this text (please find a copy attached) has received the approval of the government of Québec.

Sincerely,

Pierre Marc Johnson
(Signature)

[Translation]

November 7, 1985

Dear Mr. Premier:

I am delighted to confirm with you that this text on the agreement between our two governments regarding the Francophone Summit (copy enclosed) has received the approval of my government.

Sincerely,

Brian Mulroney
(Signature)

Mr. Pierre Marc Johnson
Premier of Québec
National Assembly
Hôtel du Parlement
Québec (Québec)
G1A 1A4

Understanding Between the Government of Canada and the Government of Quebec Concerning the Francophone Summit, November 7, 1985

Desirous of co-operating for the purpose of making an effective and original contribution of the highest quality to the Summit, the Government of Canada and the Government of Quebec have agreed as follows:

1. Nature and Structure

The Summit will consist of two distinct, consecutive parts. The first part will deal with the world political and economic situation and the second with co-operation and development.

In preparation for the first Summit, the two governments will make joint efforts to secure approval of an agenda which will, to a substantial and significant extent, be devoted to the world political and economic situation; they agree, however, that questions of co-operation and development will occupy a major portion of the Summit agenda.

2. Invitation

The invitation to the Summit will be addressed directly to the Government of Canada and the Government of Quebec. They will refer to the present understanding, which will have been communicated to the inviting power (or powers) through the usual diplomatic channels.

3. Participation

The Government of Canada and the Government of Quebec will be present at the conference table, in the persons of the heads of their governments, during the entire Summit. The Premier of Quebec will be present at the side of the Prime Minister of Canada, Quebec being identified by the designation "Canada-Quebec" and the flag of Quebec.

The rules (articles 9 and 11 of the Ottawa-Quebec arrangements) and the practices followed at the Agence de coopération culturelle et technique (Agency for Cultural and Technical Co-operation) for the representation of the two governments will apply to the Summit meetings.

On questions regarding the world political situation, the Premier of Quebec will be present as an interested observer. On questions regarding the world economic situation, the Premier of Quebec will be able, following consultation and with the agreement of the Prime Minister of Canada, on a case-by-case basis, to intervene on matters of concern to Quebec.

The Prime Minister of Canada will confidentially inform the Premier of Quebec in advance of the positions he intends to adopt on the various items of the agenda of the first part of the Summit.

During the second part, the Government of Quebec will participate fully in the debates and proceedings in accordance with the procedures and practices followed at the Agence de coopération culturelle et technique (Agency for Cultural and Technical Co-operation).

If there is a general "round table" during the Summit, the Premier of Quebec will be able to speak in accordance with the procedures and conditions defined in the present understanding.

4. Preparatory Meetings

For the preparatory meetings of senior officials (sherpas) or of ministers, each of the two governments will appoint its representative or representatives, who will exercise their functions in accordance with the provisions of the present understanding.

The invitations to such meetings will be issued in accordance with the procedures established for the Summit itself.

5. Co-ordination

During the preparatory phase and the Summit itself, the representatives of the two governments will co-ordinate their activities regularly to ensure that their positions and actions are in conformity with the spirit of the present understanding.

DOCUMENT 22

The 1987 Constitutional Accord, June 3, 1987 ("The Meech Lake Accord").

MEETING OF FIRST MINISTERS
ON THE CONSTITUTION

1987 CONSTITUTIONAL ACCORD

June 3, 1987

1987 CONSTITUTIONAL ACCORD

WHEREAS first ministers, assembled in Ottawa, have arrived at a unanimous accord on constitutional amendments that would bring about the full and active participation of Quebec in Canada's constitutional evolution, would recognize the principle of equality of all the provinces, would provide new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and would require that annual first ministers' conferences on the state of the Canadian economy and such other matters as may be appropriate be convened and that annual constitutional conferences composed of first ministers be convened commencing not later than December 31, 1988;

AND WHEREAS first ministers have also reached unanimous agreement on certain additional commitments in relation to some of those amendments;

NOW THEREFORE the Prime Minister of Canada and the first ministers of the provinces commit themselves and the governments they represent to the following:

1. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, as soon as possible, a resolution, in the form appended hereto, to authorize a proclamation to be issued by the Governor General under the Great Seal of Canada to amend the Constitution of Canada.

2. The Government of Canada will, as soon as possible, conclude an agreement with the Government of Quebec that would

(a) incorporate the principles of the Cullen-Couture agreement on the selection abroad and in Canada of independent immigrants, visitors for medical treatment, students and temporary workers, and on the selection of refugees abroad and economic criteria for family reunification and assisted relatives,

(b) guarantee that Quebec will receive a number of immigrants, including refugees, within the annual total established by the federal government for all of Canada proportionate to its share of the population of Canada, with the right to exceed that figure by five per cent for demographic reasons, and

(c) provide an undertaking by Canada to withdraw services (except citizenship services) for the reception and integration (including linguistic and cultural) of all foreign nationals wishing to settle in Quebec where services are to be provided by Quebec, with such withdrawal to be accompanied by reasonable compensation, and the Government of Canada and the Government of Quebec will take the necessary steps to give the agreement the force of law under the proposed amendment relating to such agreements.

3. Nothing in this Accord should be construed as preventing the negotiation of similar agreements with other provinces relating to immigration and the temporary admission of aliens.

4. Until the proposed amendment relating to appointments to the Senate comes into force, any person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada.

Motion for a Resolution to authorize an amendment to the Constitution of Canada

WHEREAS the Constitution Act, 1982 came into force on April 17, 1982, following an agreement between Canada and all the provinces except Quebec;

AND WHEREAS the Government of Quebec has established a set of five proposals for constitutional change and has stated that amendments to give effect to those proposals would enable Quebec to resume a full role in the constitutional councils of Canada;

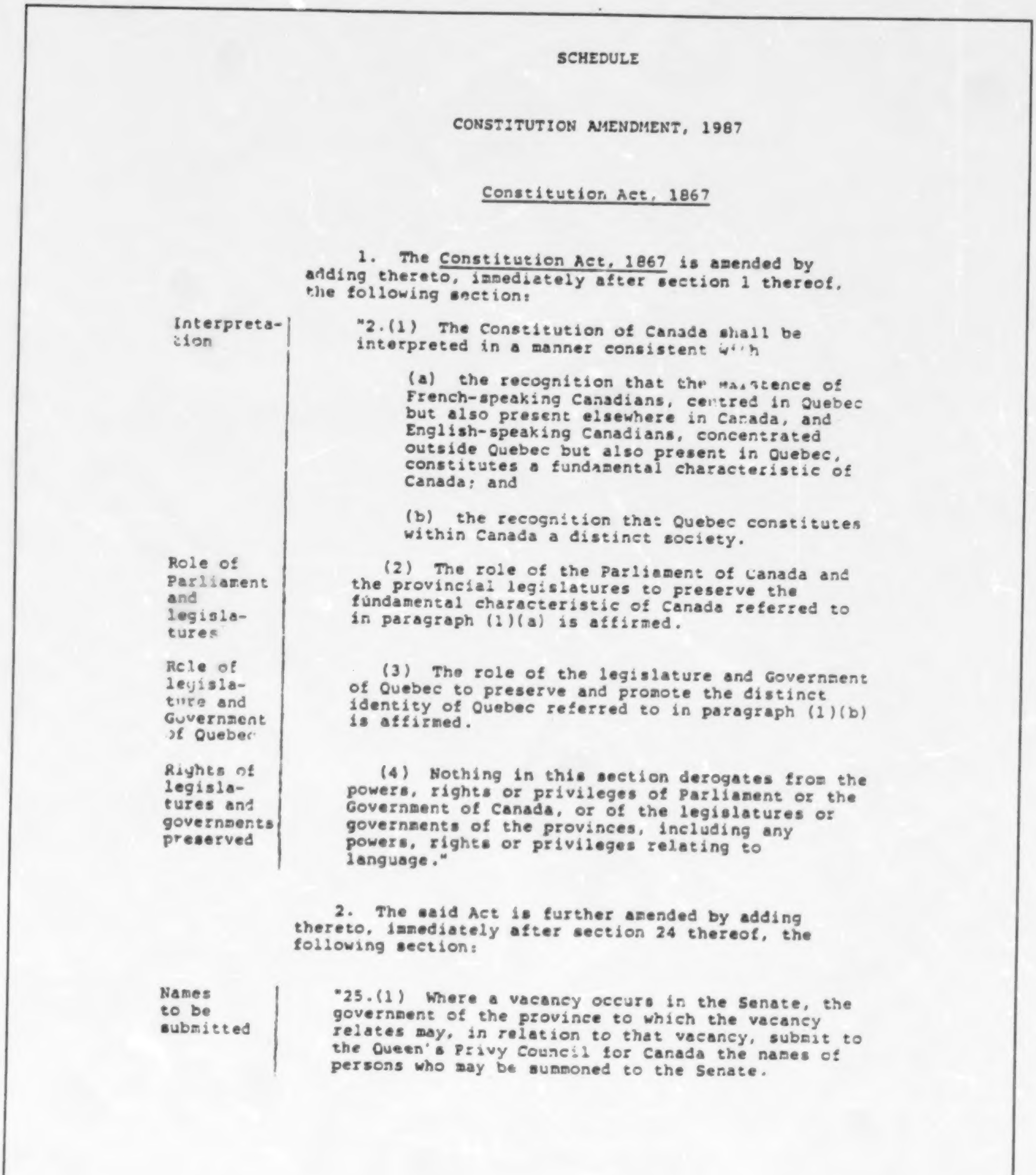
AND WHEREAS the amendment proposed in the schedule hereto sets out the basis on which Quebec's five constitutional proposals may be met;

AND WHEREAS the amendment proposed in the schedule hereto also recognizes the principle of the equality of all the provinces, provides new arrangements to foster greater harmony and cooperation between the Government of Canada and the governments of the provinces and requires that conferences be convened to consider important constitutional, economic and other issues;

AND WHEREAS certain portions of the amendment proposed in the schedule hereto relate to matters referred to in section 41 of the Constitution Act, 1982;

AND WHEREAS section 41 of the Constitution Act, 1982 provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and the House of Commons and of the legislative assembly of each province;

NOW THEREFORE the (Senate) (House of Commons) (legislative assembly) resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.



SCHEDULE

CONSTITUTION AMENDMENT, 1987

Constitution Act, 1867

1. The Constitution Act, 1867 is amended by adding thereto, immediately after section 1 thereof, the following section:

Interpretation

"2.(1) The Constitution of Canada shall be interpreted in a manner consistent with

(a) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and

(b) the recognition that Quebec constitutes within Canada a distinct society.

Role of Parliament and legislatures

(2) The role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristic of Canada referred to in paragraph (1)(a) is affirmed.

Role of legislature and Government of Quebec

(3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(b) is affirmed.

Rights of legislatures and governments preserved

(4) Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language."

2. The said Act is further amended by adding thereto, immediately after section 24 thereof, the following section:

Names to be submitted

"25.(1) Where a vacancy occurs in the Senate, the government of the province to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.

Choice of Senators from names submitted

(2) Until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 41 of the *Constitution Act, 1982*, the person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted under subsection (1) by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada."

3. The said Act is further amended by adding thereto, immediately after section 95 thereof, the following heading and sections:

"*Agreements on Immigration and Aliens*

Commitment to negotiate

95A. The Government of Canada shall, at the request of the government of any province, negotiate with the government of that province for the purpose of concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province.

Agreements

95B.(1) Any agreement concluded between Canada and a province in relation to immigration or the temporary admission of aliens into that province has the force of law from the time it is declared to do so in accordance with subsection 95C(1) and shall from that time have effect notwithstanding class 25 of section 91 or section 95.

Limitation

(2) An agreement that has the force of law under subsection (1) shall have effect only so long and so far as it is not repugnant to any provision of an Act of the Parliament of Canada that sets national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

Application of Charter

(3) The *Canadian Charter of Rights and Freedoms* applies in respect of any agreement that has the force of law under subsection (1) and in respect of anything done by the Parliament or Government of Canada, or the legislature or government of a province, pursuant to any such agreement.

Proclamation relating to agreements

95C.(1) A declaration that an agreement referred to in subsection 95B(1) has the force of law may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement.

Amendment of agreements

(2) An amendment to an agreement referred to in subsection 95B(1) may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized

(a) by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement; or

(b) in such other manner as is set out in the agreement.

Application of sections 46 to 48 of Constitution Act, 1982

95D. Sections 46 to 48 of the Constitution Act, 1982 apply, with such modifications as the circumstances require, in respect of any declaration made pursuant to subsection 95C(1), any amendment to an agreement made pursuant to subsection 95C(2) or any amendment made pursuant to section 95E.

Amendments to sections 95A to 95D or this section

95E. An amendment to sections 95A to 95D or this section may be made in accordance with the procedure set out in subsection 38(1) of the Constitution Act, 1982, but only if the amendment is authorized by resolutions of the legislative assemblies of all the provinces that are, at the time of the amendment, parties to an agreement that has the force of law under subsection 95B(1)."

4. The said Act is further amended by adding thereto, immediately preceding section 96 thereof, the following heading:

"General"

5. The said Act is further amended by adding thereto, immediately preceding section 101 thereof, the following heading:

"Courts Established by the Parliament of Canada"

6. The said Act is further amended by adding thereto, immediately after section 101 thereof, the following heading and sections:

"Supreme Court of Canada

Supreme Court continued

101A.(1) The court existing under the name of the Supreme Court of Canada is hereby continued as the general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a superior court of record.

Constitution of court

(2) The Supreme Court of Canada shall consist of a chief justice to be called the Chief Justice of Canada and eight other judges, who shall be appointed by the Governor General in Council by letters patent under the Great Seal.

Who may be appointed judges

101B.(1) Any person may be appointed a judge of the Supreme Court of Canada who, after having been admitted to the bar of any province or territory, has, for a total of at least ten years, been a judge of any court in Canada or a member of the bar of any province or territory.

Three judges from Quebec

(2) At least three judges of the Supreme Court of Canada shall be appointed from among persons who, after having been admitted to the bar of Quebec, have, for a total of at least ten years, been judges of any court of Quebec or of any court established by the Parliament of Canada, or members of the bar of Quebec.

Names may be submitted

101C.(1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province may, in relation to that vacancy, submit to the Minister of Justice of Canada the names of any of the persons who have been admitted to the bar of that province and are qualified under section 101B for appointment to that court.

Appointment from names submitted

(2) Where an appointment is made to the Supreme Court of Canada, the Governor General in Council shall, except where the Chief Justice is appointed from among members of the Court, appoint a person whose name has been submitted under subsection (1) and who is acceptable to the Queen's Privy Council for Canada.

Appointment from Quebec

(3) Where an appointment is made in accordance with subsection (2) of any of the three judges necessary to meet the requirement set out in subsection 101B(2), the Governor General in Council shall appoint a person whose name has been submitted by the Government of Quebec.

Appointment from other provinces

(4) Where an appointment is made in accordance with subsection (2) otherwise than as required under subsection (3), the Governor General in Council shall appoint a person whose name has been submitted by the government of a province other than Quebec.

Tenure, salaries, etc. of judges

101D. Sections 99 and 100 apply in respect of the judges of the Supreme Court of Canada.

Relationship to section 101

101E.(1) Sections 101A to 101D shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws under section 101 except to the extent that such laws are inconsistent with those sections.

References to the Supreme Court of Canada

(2) For greater certainty, section 101A shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws relating to the reference of questions of law or fact, or any other matters, to the Supreme Court of Canada."

7. The said Act is further amended by adding thereto, immediately after section 106 thereof, the following section:

Shared-cost program

"106A.(1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a national shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives.

Legislative power not extended

(2) Nothing in this section extends the legislative powers of the Parliament of Canada or of the legislatures of the provinces."

8. The said Act is further amended by adding thereto the following heading and sections:

"XII - Conferences on the Economy and Other Matters

Conferences on the economy and other matters

148. A conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss the state of the Canadian economy and such other matters as may be appropriate.

XIII - References

Reference includes amendments

149. A reference to this Act shall be deemed to include a reference to any amendments thereto."

Constitution Act, 1982

9. Sections 40 to 42 of the Constitution Act, 1982 are repealed and the following substituted therefor:

Compensation

"40. Where an amendment is made under subsection 38(1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

Amendment by unanimous consent

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

(a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(b) the powers of the Senate and the method of selecting Senators;

(c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(d) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province was entitled to be represented on April 17, 1982;

(e) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

(f) subject to section 43, the use of the English or the French language;

(g) the Supreme Court of Canada;

(h) the extension of existing provinces into the territories;

(i) notwithstanding any other law or practice, the establishment of new provinces; and

(j) an amendment to this Part."

10. Section 44 of the said Act is repealed and the following substituted therefor:

Amendments by Parliament

"44. Subject to section 41, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons."

11. Subsection 46(1) of the said Act is repealed and the following substituted therefor:

Initiation of amendment procedures

"46.(1) The procedures for amendment under sections 38, 41 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province."

12. Subsection 47(1) of the said Act is repealed and the following substituted therefor:

Amendments without Senate resolution

"47.(1) An amendment to the Constitution of Canada made by proclamation under section 38, 41 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution."

13. Part VI of the said Act is repealed and the following substituted therefor:

"Part VI

Constitutional Conferences

Constitutional conference

50 (1). A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988.

Agenda

(2) The conferences convened under subsection (1) shall have included on their agenda the following matters:

(a) Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators and representation in the Senate;

(b) roles and responsibilities in relation to fisheries; and

(c) such other matters as are agreed upon."

14. Subsection 52(2) of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) any other amendment to the Constitution of Canada."

15. Section 61 of the said Act is repealed and the following substituted therefor:

References

"61. *A reference to the Constitution Act 1982, or* a reference to the *Constitution Acts 1867 to 1982*, shall be deemed to include a reference to *any amendments thereto*."

General

Multicultural heritage and aboriginal peoples

16. Nothing in section 2 of the *Constitution Act, 1867* affects section 25 or 27 of the *Canadian Charter of Rights and Freedoms*, section 35 of the *Constitution Act, 1982* or class 24 of section 91 of the *Constitution Act, 1867*.

CITATION

Citation

17. This amendment may be cited as the *Constitution Amendment, 1987*.

Signed at Ottawa,
June 3, 1987

Fait à Ottawa
le 3 juin 1987

Brian Mulroney
Canada

Ontario

Robert Bourassa
Québec

John Buchanan
Nova Scotia
Nouvelle-Écosse

Richard B. Hatfield
New Brunswick
Nouveau-Brunswick

Howard Pawley
Manitoba

British Columbia
Colombie-Britannique

Prince Edward Island
Île-du-Prince-Édouard

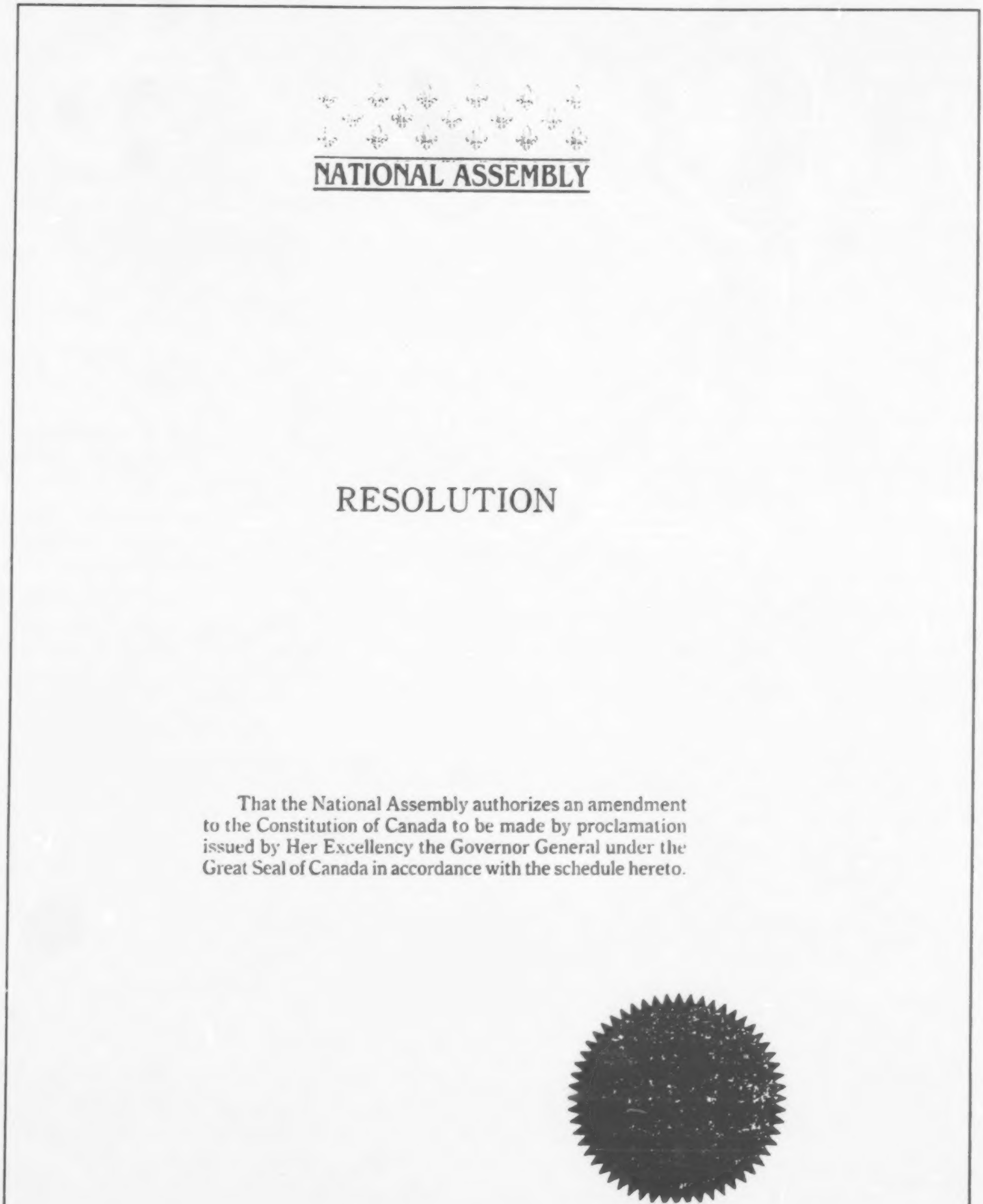
Saskatchewan

Donald R. Getty
Alberta

Newfoundland
Terre-Neuve

DOCUMENT 23

Resolution of the Québec National Assembly to authorize an amendment to the Canadian Constitution in accordance with the Meech Lake Accord, June 23, 1987.



NATIONAL ASSEMBLY

RESOLUTION

That the National Assembly authorizes an amendment to the Constitution of Canada to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE

CONSTITUTION AMENDMENT, 1987

Constitution Act, 1867

1. The *Constitution Act, 1867* is amended by adding thereto, immediately after section 1 thereof, the following section:

Interpretation

"**2.** (1) The Constitution of Canada shall be interpreted in a manner consistent with

(*a*) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and

(*b*) the recognition that Quebec constitutes within Canada a distinct society.

Role of Parliament and legislatures

(2) The role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristic of Canada referred to in paragraph (1) (*a*) is affirmed.

Role of legislature and Government of Quebec

(3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1) (*b*) is affirmed.

Rights of legislatures and governments preserved

(4) Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language."

2. The said Act is further amended by adding thereto, immediately after section 24 thereof, the following section:

Names to be submitted

"**25.** (1) Where a vacancy occurs in the Senate, the government of the province to which the vacancy relates may, in relation to that vacancy, submit to the Queen's Privy Council for Canada the names of persons who may be summoned to the Senate.

Choice of Senators from names submitted

(2) Until an amendment to the Constitution of Canada is made in relation to the Senate pursuant to section 41 of the *Constitution Act, 1982*, the person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted under subsection (1) by the government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada."

3. The said Act is further amended by adding thereto, immediately after section 95 thereof, the following heading and sections:

"*Agreements on Immigration and Aliens*

Commitment to negotiate

95A. The Government of Canada shall, at the request of the government of any province, negotiate with the government of that province for the purpose of concluding an agreement relating to immigration or the temporary admission of aliens into that province that is appropriate to the needs and circumstances of that province.

Agreements

95B. (1) Any agreement concluded between Canada and a province in relation to immigration or the temporary admission of aliens into that province has the force of law from the time it is declared to do so in accordance with subsection 95C (1) and shall from that time have effect notwithstanding class 25 of section 91 or section 95.

Limitation

(2) An agreement that has the force of law under subsection (1) shall have effect only so long and so far as it is not repugnant to any provision of an Act of the Parliament of Canada that sets national standards and objectives relating to immigration or aliens, including any provision that establishes general classes of immigrants or relates to levels of immigration for Canada or that prescribes classes of individuals who are inadmissible into Canada.

Application of Charter

(3) The *Canadian Charter of Rights and Freedoms* applies in respect of any agreement that has the force of law under subsection (1) and in respect of anything done by the Parliament or Government of Canada, or the legislature or government of a province, pursuant to any such agreement.

Proclamation relating to agreements

95C. (1) A declaration that an agreement referred to in subsection 95B (1) has the force of law may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement.

Amendment of agreements

(2) An amendment to an agreement referred to in subsection 95B (1) may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized

(*a*) by resolutions of the Senate and House of Commons and of the legislative assembly of the province that is a party to the agreement; or

(*b*) in such other manner as is set out in the agreement.

Application of sections 46 to 48 of Constitution Act, 1982

95D. Sections 46 to 48 of the *Constitution Act, 1982* apply, with such modifications as the circumstances require, in respect of any declaration made pursuant to subsection 95C (1), any amendment to an agreement made pursuant to subsection 95C (2) or any amendment made pursuant to section 95E.

Amendments to sections 95A to 95D or this section

95E. An amendment to sections 95A to 95D or this section may be made in accordance with the procedure set out in subsection 38 (1) of the *Constitution Act, 1982*, but only if the amendment is authorized by resolutions of the legislative assemblies of all the provinces that are, at the time of the amendment, parties to an agreement that has the force of law under subsection 95B (1)."

4. The said Act is further amended by adding thereto, immediately preceding section 96 thereof, the following heading:

"*General*"

5. The said Act is further amended by adding thereto, immediately preceding section 101 thereof, the following heading:

"*Courts Established by the Parliament of Canada*"

6. The said Act is further amended by adding thereto, immediately after section 101 thereof, the following heading and sections:

"*Supreme Court of Canada*

Supreme Court continued

101A. (1) The court existing under the name of the Supreme Court of Canada is hereby continued as the general court of appeal for Canada, and as an additional court for the better administration of the laws of Canada, and shall continue to be a superior court of record

Constitution of court

(2) The Supreme Court of Canada shall consist of a chief justice to be called the Chief Justice of Canada and eight other judges, who shall be appointed by the Governor General in Council by letters patent under the Great Seal.

Who may be appointed judges

101B. (1) Any person may be appointed a judge of the Supreme Court of Canada who, after having been admitted to the bar of any province or territory, has, for a total of at least ten years, been a judge of any court in Canada or a member of the bar of any province or territory.

Three judges from Quebec

(2) At least three judges of the Supreme Court of Canada shall be appointed from among persons who, after having been admitted to the bar of Quebec, have, for a total of at least ten years, been judges of any court of Quebec or of any court established by the Parliament of Canada, or members of the bar of Quebec.

Names may be submitted

101C. (1) Where a vacancy occurs in the Supreme Court of Canada, the government of each province may, in relation to that vacancy, submit to the Minister of Justice of Canada the names of any of the persons who have been admitted to the bar of that province and are qualified under section 101B for appointment to that court.

Appointment from names submitted

(2) Where an appointment is made to the Supreme Court of Canada, the Governor General in Council shall, except where the Chief Justice is appointed from among members of the Court, appoint a person whose name has been submitted under subsection (1) and who is acceptable to the Queen's Privy Council for Canada.

Appointment from Quebec

(3) Where an appointment is made in accordance with subsection (2) of any of the three judges necessary to meet the requirement set out in subsection 101B(2), the Governor General in Council shall appoint a person whose name has been submitted by the Government of Quebec.

Appointment from other provinces

(4) Where an appointment is made in accordance with subsection (2) otherwise than as required under subsection (3), the Governor General in Council shall appoint a person whose name has been submitted by the government of a province other than Quebec.

Tenure, salaries, etc., of judges

101D. Sections 99 and 100 apply in respect of the judges of the Supreme Court of Canada.

Relationship to section 101

101E. (1) Sections 101A to 101D shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws under section 101 except to the extent that such laws are inconsistent with those sections.

References to the Supreme Court of Canada

(2) For greater certainty, section 101A shall not be construed as abrogating or derogating from the powers of the Parliament of Canada to make laws relating to the reference of questions of law or fact, or any other matters, to the Supreme Court of Canada."

7. The said Act is further amended by adding thereto, immediately after section 106 thereof, the following section:

Shared-cost program

"**106A.** (1) The Government of Canada shall provide reasonable compensation to the government of a province that chooses not to participate in a national shared-cost program that is established by the Government of Canada after the coming into force of this section in an area of exclusive provincial jurisdiction, if the province carries on a program or initiative that is compatible with the national objectives.

Legislative power not extended

(2) Nothing in this section extends the legislative powers of the Parliament of Canada or of the legislatures of the provinces."

8. The said Act is further amended by adding thereto the following heading and sections:

"XII — CONFERENCES ON THE ECONOMY AND OTHER MATTERS

Conferences on the economy and other matters

148. A conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year to discuss the state of the Canadian economy and such other matters as may be appropriate.

XIII — REFERENCES

Reference includes amendments

149. A reference to this Act shall be deemed to include a reference to any amendments thereto."

Constitution Act, 1982

9. Sections 40 to 42 of the *Constitution Act, 1982* are repealed and the following substituted therefor:

Compensation

"**40.** Where an amendment is made under subsection 38 (1) that transfers legislative powers from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

Amendment by unanimous consent

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

(*a*) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(*b*) the powers of the Senate and the method of selecting Senators;

(*c*) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;

(*d*) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province was entitled to be represented on April 17, 1982;

(*e*) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

(*f*) subject to section 43, the use of the English or the French language;

(*g*) the Supreme Court of Canada;

(*h*) the extension of existing provinces into the territories;

(*i*) notwithstanding any other law or practice, the establishment of new provinces; and

(*j*) an amendment to this Part."

10. Section 44 of the said Act is repealed and the following substituted therefor:

Amendments by Parliament

"**44.** Subject to section 41, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons."

11. Subsection 46 (1) of the said Act is repealed and the following substituted therefor:

Initiation of amendment procedures

"**46.** (1) The procedures for amendment under sections 38, 41 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province."

12. Subsection 47 (1) of the said Act is repealed and the following substituted therefor:

Amendments without Senate resolution

"**47.** (1) An amendment to the Constitution of Canada made by proclamation under section 38, 41 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution."

13. Part VI of the said Act is repealed and the following substituted therefor:

"PART VI

CONSTITUTIONAL CONFERENCES

Constitutional conference

50. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada at least once each year, commencing in 1988.

Agenda

(2) The conferences convened under subsection (1) shall have included on their agenda the following matters:

(*a*) Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators and representation in the Senate;

(*b*) roles and responsibilities in relation to fisheries; and

(*c*) such other matters as are agreed upon."

14. Subsection 52 (2) of the said Act is amended by striking out the word "and" at the end of paragraph (*b*) thereof, by adding the word "and" at the end of paragraph (*c*) thereof and by adding thereto the following paragraph:

"(*d*) any other amendment to the Constitution of Canada."

15. Section 61 of the said Act is repealed and the following substituted therefor:

References

"**61.** A reference to the *Constitution Act 1982*, or a reference to the *Constitution Acts 1867 to 1982*, shall be deemed to include a reference to any amendments thereto."

General

Multicultural heritage and aboriginal peoples

16. Nothing in section 2 of the *Constitution Act, 1867* affects section 25 or 27 of the *Canadian Charter of Rights and Freedoms*, section 35 of the *Constitution Act, 1982* or class 24 of section 91 of the *Constitution Act, 1867*.

CITATION

Citation

17. This amendment may be cited as the *Constitution Amendment, 1987*

TRUE COPY OF THE RESOLUTION ADOPTED BY THE NATIONAL ASSEMBLY ON JUNE 23, 1987

Québec, 10 July 1987

PIERRE DUCHESNE
Secretary-General of the National Assembly

DOCUMENT 24

An Act to establish the Commission on the Political and Constitutional Future of Québec (Assented to September 4, 1990).

CHAPTER 34

An Act to establish the Commission on the Political and Constitutional Future of Québec

[*Assented to 4 September 1990*]

Preamble

WHEREAS Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development;

Whereas Quebecers wish to play an active part in defining the political and constitutional future of Québec;

Whereas the Constitution Act, 1982, was proclaimed despite the opposition of the National Assembly;

Whereas the 1987 Agreement on the Constitution, the aim of which was to allow Québec to become a party to the Constitution Act, 1982, has failed;

Whereas it is necessary to redefine the political and constitutional status of Québec;

Whereas Québec has already demonstrated its respect for democratic values and individual rights and freedoms;

Whereas Québec has recognized that Quebecers wish to see the quality and influence of the French language assured and to make it the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;

Whereas Québec intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the rights and institutions of the English-speaking community of Québec;

Whereas Québec recognizes the right of the Amerinds and the Inuit of Québec to preserve and develop their specific character and to assure the progress of their communities and that it considers the contribution of the cultural communities to be of prime importance for the development of Québec;

Whereas Québec supports French-speaking communities outside Québec and contributes to the international French-speaking world;

Whereas the economy of Québec is mature and vigorous and Quebecers clearly wish to see its development and growth assured, while respecting the demands of both market globalization and social justice;

Whereas in consequence it is expedient to create a special Commission to examine and analyse the political and constitutional status of Québec;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

ESTABLISHMENT AND MANDATE

Establishment

1. The Commission on the Political and Constitutional Future of Québec is hereby established, under the authority of the National Assembly.

Mandate

2. The mandate of the Commission is to examine and analyse the political and constitutional status of Québec and to make recommendations in respect thereof.

Research and consultation

3. In order to fulfil its mandate, the Commission may carry out any research and consultation it considers necessary.

Means

It shall use the following means, among others:

– the holding of public hearings in various regions of Québec;

– the hearing of experts;

– the holding of forums on specific aspects of the mandate, in particular the social, cultural, demographic and regional development aspects.

Report

4. The Commission shall report to the National Assembly not later than 28 March 1991.

Report

It shall submit its report to the President of the National Assembly and render it public by whatever means it considers appropriate.

Tabling

The President shall table the report before the National Assembly without delay or, if the Assembly is not sitting, within 15 days of resumption.

DIVISION II

MEMBERS

Members

5. The following persons, appointed by the National Assembly or, if it is not sitting, by the President of the National Assembly, shall become members of the Commission immediately upon appointment:

(1) two chairmen appointed on a joint proposal of the Prime Minister and the Leader of the Official Opposition;

(2) sixteen Members of the National Assembly, in the following proportion:

(*a*) nine from the government party, appointed on a proposal of the Prime Minister;

(*b*) six from the official opposition party, appointed on a proposal of the Leader of the Official Opposition;

(*c*) one Member from the other party represented in the opposition, appointed on a proposal of the Members belonging to that party;

(3) twelve persons appointed on a proposal of the Prime Minister after consultation with the Leader of the Official Opposition and chosen in the following proportion:

(*a*) two elected municipal officers;

(*b*) four persons from the business sector;

(*c*) four persons from the trade union sector;

(*d*) one person from the cooperative sector;

(*e*) one person from the educational sector or the cultural sector;

(4) three Members of the House of Commons of Canada appointed on a proposal of the Prime Minister after consultation with

the Leader of the Official Opposition, who were elected at the last general election to represent an electoral district in Québec, and who continue to do so.

Members **6.** The Prime Minister and the Leader of the Official Opposition shall also be members of the Commission.

Cessation of membership **7.** A person shall cease to be a member of the Commission upon losing the quality required for appointment.

Substitutes **8.** Each member described in any subparagraph of paragraph 3 of section 5 may inform the President of the National Assembly, in writing, of the name of a person who agrees to be his substitute. The person shall be domiciled in Québec and shall have the quality required for appointment as a member under the relevant subparagraph. The President shall then appoint that person as a substitute member of the Commission.

Substitutes A member may designate only one substitute for the duration of his term of office.

Restrictions **9.** A substitute member may sit on the Commission only when the member for whom he has been appointed substitute is unable to act or is temporarily absent. However, he is not entitled to vote, nor may he propose motions.

Members of the Assembly **10.** Members of the Commission who are also Members of the National Assembly may be replaced at a sitting of the Commission by any other Member of the Assembly. However, they may not be replaced when the Commission decides on the recommendations it is required by its mandate to make.

Allowances **11.** Members of the Commission shall receive the allowances determined by regulation of the Office of the National Assembly.

Rights and obligations **12.** When sitting as a member of the Commission, a Member of the National Assembly enjoys the same rights, privileges and immunities and has the same obligations as if he were sitting as a member of a parliamentary committee.

Immunity No other member of the Commission may be prosecuted for any act performed in good faith in the discharge of his functions.

DIVISION III

ORGANIZATION

§ 1.—*Chairmanship*

Joint chairmanship **13.** The Commission shall be presided over jointly by the chairmen.

Chairman However, it may be presided over by one of them acting alone where both so agree.

Functions **14.** The chairmen shall call and conduct the sittings of the Commission. They shall take part in its proceedings and are entitled to vote. They shall direct the work of the Commission and ensure that its decisions are correctly implemented.

Attributions **15.** For the purposes of this Act, the chairmen shall have the attributions conferred by law on the chief executive officer of an agency. Notwithstanding any provision of law, they may delegate these attributions to any person they may designate.

§ 2.—*Steering Committee*

Composition **16.** A steering committee of the Commission is hereby established, to be made up of the following members:

(1) the chairmen;

(2) six Members of the National Assembly, designated as follows:

(*a*) four by the Prime Minister;

(*b*) two by the Leader of the Official Opposition;

(3) one member of the Commission who is not a Member of the National Assembly, designated by the President of the National Assembly on a proposal of the Prime Minister after consultation with the Leader of the Official Opposition.

Operating rules **17.** The steering committee shall be responsible for proposing operating rules to the Commission, particularly in connection with the calling and conduct of sittings and the procedure applicable to its proceedings.

Other functions — It shall establish the staffing plan and budget estimates, authorize applications to the Office of the National Assembly, and discharge any other functions assigned to it by the Commission.

Applicability — **18.** Sections 13 and 14, adapted as required, apply to the steering committee.

Means of communication — The steering committee may meet by any means that allows the members to communicate orally with each other.

§ 3.—*Secretariat*

Secretariat — **19.** The Commission shall be assisted in carrying out its mandate by a secretariat under the direction of the secretary of the Commission.

Secretary — The secretary of the Commission shall be appointed by the chairmen. His remuneration and other conditions of employment shall be determined by the Office of the National Assembly.

Functions — **20.** The secretary, under the exclusive authority of the chairmen, shall manage the staff of the Commission and administer its day to day business.

Attendance — **21.** The secretary shall attend the sittings of the Commission and of the steering committee.

Minutes — He shall see that minutes are taken, and may attest to their authenticity. He shall have custody of the records of the Commission.

Other functions — He shall also discharge any other functions assigned to him by the chairmen.

Personnel — **22.** The Commission may engage the services of any person to form part of the secretariat.

Assistance — **23.** The President and the Secretary General of the National Assembly shall provide the secretariat with any assistance it may need to carry out the mandate of the Commission, including supplying staff.

DIVISION IV

OPERATION

Quorum

24. The quorum of the Commission is eighteen members, and the quorum of the steering committee is five members, excluding substitutes.

Sittings

25. The Commission may sit at any place in Québec.

Sittings

Its sittings, with the exception of working sittings, shall be public.

Public sittings

26. The public sittings of the Commission shall be televised and recorded under the authority of the President of the National Assembly. The proceedings of the public sittings shall be recorded in the Journal of Debates.

Terms and conditions

The terms and conditions of production, broadcasting and recording shall be determined by the Office of the National Assembly.

Applicable provisions

27. Unless otherwise provided in this Act or in a rule made by the Commission, the provisions of the Standing Orders of the National Assembly and the Operating Rules of the National Assembly for sittings of parliamentary committees, adapted as required, apply to sittings of the Commission.

Other opposition party

28. If the member of the Commission appointed on the proposal of the Members belonging to the other party represented in the opposition is not the Member who leads that party, the latter Member may take part in the proceedings of the Commission. However, he is not entitled to vote, nor may he propose motions.

Applicability

Section 11 and the first paragraph of section 12 apply where he so takes part.

Expenses

29. The Commission may incur any expenses necessary for carrying out its mandate. The expenses of the Commission shall form part of the expenses of the National Assembly.

Powers

30. The Office of the National Assembly may, in respect of management of the business of the Commission, exercise the powers conferred on it by sections 104.1, 110, 110.1 and 111 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1), adapted as required.

Applicable regulations and rules

Except as otherwise provided by this Act, the regulations and rules adopted by the Office concerning the management and expenses of the Assembly apply, where so determined by the Office, to the management and expenses of the Commission. The Office may, by regulation, make amendments thereto for the purposes of this Act.

Effect of regulations

A regulation of the Office, if so provided therein and if it was made under this Act, may have effect from the date of coming into force of this Act.

Budget estimates

31. The budget estimates of the Commission shall be approved by the Office of the National Assembly.

DIVISION V

MISCELLANEOUS PROVISIONS

Records

32. When the Commission has completed its mandate, the secretary shall place its records with the records of the National Assembly.

Dissolution

The Commission shall then be dissolved.

Proceedings

33. The proceedings of the Commission shall be protected against all interference to the same extent as the proceedings of the National Assembly.

Presumption

34. For the purposes of sections 8 and 48 to 50 of the Act respecting the National Assembly, the Commission shall be deemed to be a parliamentary committee.

Presumption

The payment of allowances or other sums of money to a Member for the purposes of this Act shall not constitute a benefit or remuneration incompatible with the office of Member, and is deemed to be covered by section 73 of the Act respecting the National Assembly.

Required sums

35. The sums required for the purposes of this Act shall be taken out of the consolidated revenue fund.

Coming into force

36. This Act comes into force on 4 September 1990.

DOCUMENT 25

An Act respecting the process for determining the political and constitutional future of Québec (As assented to on June 20, 1991).

CHAPTER 34

An Act respecting the process for determining the political and constitutional future of Québec

[Assented to 20 June 1991]

PREAMBLE

Preamble

WHEREAS the Commission on the Political and Constitutional Future of Québec has submitted its report, together with its conclusions and recommendations;

Whereas Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development;

Whereas Quebecers wish to play an active part in defining the political and constitutional future of Québec;

Whereas the Constitution Act, 1982, was proclaimed despite the opposition of the National Assembly;

Whereas the 1987 Constitutional Accord, the aim of which was to allow Québec to become a party to the Constitution Act, 1982, has failed;

Whereas it is necessary to redefine the political and constitutional status of Québec;

Whereas Québec has already demonstrated its respect for democratic values and individual rights and freedoms;

Whereas Québec has recognized that Quebecers wish to see the quality and influence of the French language assured and to make it the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;

Whereas Québec intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the rights and institutions of the English-speaking community of Québec;

Whereas Québec recognizes the right of the Amerinds and the Inuit of Québec to preserve and develop their specific identity and culture and to assure the progress of their communities;

Whereas Québec considers the contribution of the cultural communities to be of prime importance for the development of Québec;

Whereas Québec supports French-speaking communities outside Québec and contributes to the international French-speaking world;

Whereas the Commission on the Political and Constitutional Future of Québec recognizes that a valid solution, other than the political sovereignty of Québec, would be a fundamental renewal of federalism through the establishment of a new constitutional partnership;

Whereas Québec wishes to ensure that everyone should have a fair understanding of the changes that are necessary to make the Canadian federal system acceptable to Québec and of the true definition of sovereignty and of its political, economic, social and cultural implications;

Whereas the Gouvernement du Québec retains at all times its full prerogative to initiate and assess measures to promote the best interests of Québec;

Whereas the National Assembly continues to hold the sovereign power to decide on any referendum question and to pass appropriate legislation where necessary;

Whereas in consequence it is expedient to provide for the holding of a referendum on the sovereignty of Québec, to create a special parliamentary committee to examine and analyse matters relating to the accession of Québec to full sovereignty, and to create a special parliamentary committee to assess any offer of a new constitutional partnership from the Government of Canada;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

REFERENDUM ON SOVEREIGNTY

Referendum

1. The Gouvernement du Québec shall hold a referendum on the sovereignty of Québec between 8 June and 22 June 1992 or between 12 October and 26 October 1992.

Proposal

If the results of the referendum are in favour of sovereignty, they constitute a proposal that Québec acquire the status of a sovereign State one year to the day from the holding of the referendum.

CHAPTER II

COMMITTEE TO EXAMINE MATTERS RELATING TO THE ACCESSION OF QUÉBEC TO SOVEREIGNTY

Establishment

2. A special parliamentary committee called the Committee to Examine Matters Relating to the Accession of Québec to Sovereignty is hereby established, under the authority of the National Assembly.

Order of reference

3. The order of reference of the committee is to examine and analyse matters relating to the accession of Québec to full sovereignty, that is, to a position of exclusive jurisdiction, through its democratic institutions, to make laws and levy taxes in its territory and to act on the international scene for the making of agreements and treaties of any kind with other independent States and participating in various international organizations, and to make recommendations to the National Assembly in that regard.

Order of reference

A further order of reference of the committee is to examine and analyse any formal offer of economic partnership that may be made by the Government of Canada, and to make recommendations to the National Assembly with regard to the offer.

CHAPTER III

COMMITTEE TO EXAMINE ANY OFFER OF A NEW CONSTITUTIONAL PARTNERSHIP

Establishment

4. A special parliamentary committee called the Committee to Examine any Offer of a New Constitutional Partnership is hereby established, under the authority of the National Assembly.

Order of reference

5. The order of reference of the committee is to assess any offer of a new constitutional partnership made to the Gouvernement du Québec by the Government of Canada and to make recommendations to the National Assembly with regard to the offer.

Binding offer

6. No offer of a new constitutional partnership made to the Gouvernement du Québec may be submitted to the assessment of the committee unless it is formally binding on the Government of Canada and the other provinces.

CHAPTER IV

GENERAL PROVISIONS RESPECTING THE COMMITTEES

DIVISION I

COMPOSITION

Composition

7. Each committee shall be composed of eighteen members, including the chairman.

Members

The committees shall be composed of the following members: the Prime Minister, the Leader of the Official Opposition, the Minister for Canadian Intergovernmental Affairs and fifteen Members of the National Assembly nominated as follows:

(1) nine Members from the Government party, named by the Prime Minister;

(2) five Members from the Official Opposition party, named by the Leader of the Official Opposition;

(3) the Leader of the other party represented in the Opposition, or a Member from that party named by him.

Chairman

The chairman of each committee and, where necessary, his permanent substitute, shall be appointed by the Prime Minister.

Written notice

8. The Prime Minister, the Leader of the Official Opposition and the Leader of the other party represented in the Opposition shall transmit written notice of the names of the Committee members they are responsible for naming or appointing to the President of the National Assembly.

Substitutes

9. Any member of a committee may be substituted for, for a single sitting or part thereof, by a Member of the National Assembly, including a Minister.

Announcement

At the beginning of each sitting or, as the case may be, of any part of a sitting, the clerk to the committee shall announce the names of substitutes that have been signified to him by the Whip of each party or his representative, or by the committee member contemplated in subparagraph 3 of the second paragraph of section 7.

Vacancy

10. Any vacancy among the fifteen seats on a committee shall be filled, and any permanent substitution for any of the fifteen members named to a committee shall be made, according to the rules provided for the nomination of the member being replaced.

Rights of members

11. The members of a committee, including their substitutes where such is the case, have the right to vote and to make motions, except, among the five Members named by the Leader of the Official Opposition, two Members designated by him in the notice he has transmitted to the President of the National Assembly pursuant to section 8.

DIVISION II

ORGANIZATION, OPERATION, MANAGEMENT AND EXPENSES

§ 1.—*Organization*

Chairman

12. The chairman of a committee shall prepare the staffing plan, budget estimates and work-plan of the committee. He shall authorize applications to the Office of the National Assembly.

Duties

He shall call and direct the sittings of the committee. He shall take part in the deliberations of the committee, direct its proceedings, ensure that its decisions are correctly implemented and exercise his right, under section 11, to vote.

Attributions

13. For the purposes of this chapter, the chairman has the attributions of the chief executive officer of an agency. Notwithstanding any other provision of law, he may delegate these attributions to any person he may designate.

Substitute

14. Where the chairman of a committee is unable to act, or at his request, a member of the committee designated by him shall substitute for him and carry on his duties.

Secretariat

15. The committees shall be assisted by a secretariat in carrying out their orders of reference.

Clerk

The clerk and the deputy-clerk to the committees shall be appointed by the chairmen.

Engagements

16. With the authorization of the chairmen, the clerk may engage the services of any person to form part of the secretariat of the committees.

Employment conditions

17. The remuneration and other conditions of employment of the personnel of the secretariat shall be determined by the Office of the National Assembly.

Duties

18. The clerk to the committees, under the exclusive authority of the chairmen, shall direct the personnel of the committees, administer the day to day business of the committees and discharge any other functions assigned to him by the chairmen.

Attendance

19. The clerk shall attend the sittings of the committees.

Simultaneous sittings

When the committees are sitting simultaneously, the clerk or the deputy-clerk shall attend whichever sitting the chairmen determine.

Records

The clerk or the deputy-clerk, as the case may be, shall see that the minutes are taken and may attest to their authenticity. The clerk shall have custody of the records of the committees.

Substitute

20. Where the clerk or the deputy-clerk is unable to act, any other person designated by the chairmen may substitute for him and carry on his duties.

Assistance

21. The President and the Secretary General of the National Assembly shall provide the secretariat of the committees with any assistance it may need to carry out the orders of reference of the committees, including supplying personnel.

§ 2.—*Operation*

Powers

22. In order to carry out their orders of reference, the committees may order any research and hold any consultation they consider necessary and hear any interested person or organization.

Sittings

23. The sittings of the committees shall be public, with the exception of working sittings and sittings with closed doors.

Location

The committees may sit anywhere in the territory of the Communauté urbaine de Québec.

Quorum

24. The quorum of a committee is formed by one-third of its members having the right to vote. The quorum of any subcommittee is formed by the majority of its members having the right to vote.

Simultaneous sittings

25. The committees may meet without regard to how many parliamentary committees may be meeting simultaneously.

§ 3.—*Management and expenses*

Expenses

26. The committees may incur any expenses necessary for the carrying out of their orders of reference. Their expenses shall form part of the expenses of the National Assembly.

Budget estimates

27. The budget estimates of each of the committees shall be approved by the Office of the National Assembly.

DIVISION III

MISCELLANEOUS PROVISIONS

Applicable provisions

28. Except as otherwise provided by this Act, all provisions applicable to standing committees and their members and personnel contained in the Act respecting the National Assembly (R.S.Q., chapter A-23.1), the Standing Orders of the National Assembly, the Operating Rules for Committees and the regulations, rules and decisions adopted by the Office of the National Assembly apply, adapted as required, to the special committees.

Standing orders

However, paragraph 4 of Standing Order 115 and Standing Orders 121, 123, 132, 134, 135 and 137 of the Standing Orders of the National Assembly do not apply to these committees, and no interpellation under Standing Order 295 is admissible therein.

Regulation

In addition, for the application of this chapter, the Office of the National Assembly may, by regulation, make amendments to the rules and regulations it has adopted in respect of the management and expenses of the Assembly and exercise its power under the second paragraph of section 110 of the Act respecting the National Assembly. Such a regulation may, if it so provides, have effect from any date not prior to 20 June 1991.

Cessation of existence

29. A committee ceases to exist by decision of the National Assembly upon the motion of the Prime Minister or his representative. In addition, the committees cease to exist upon the dissolution of the National Assembly.

Records

When a committee ceases to exist, its records become records of the National Assembly.

Required sums

30. The sums required for the carrying out of this chapter shall be taken out of the consolidated revenue fund.

CHAPTER V

FINAL PROVISIONS

Written notices

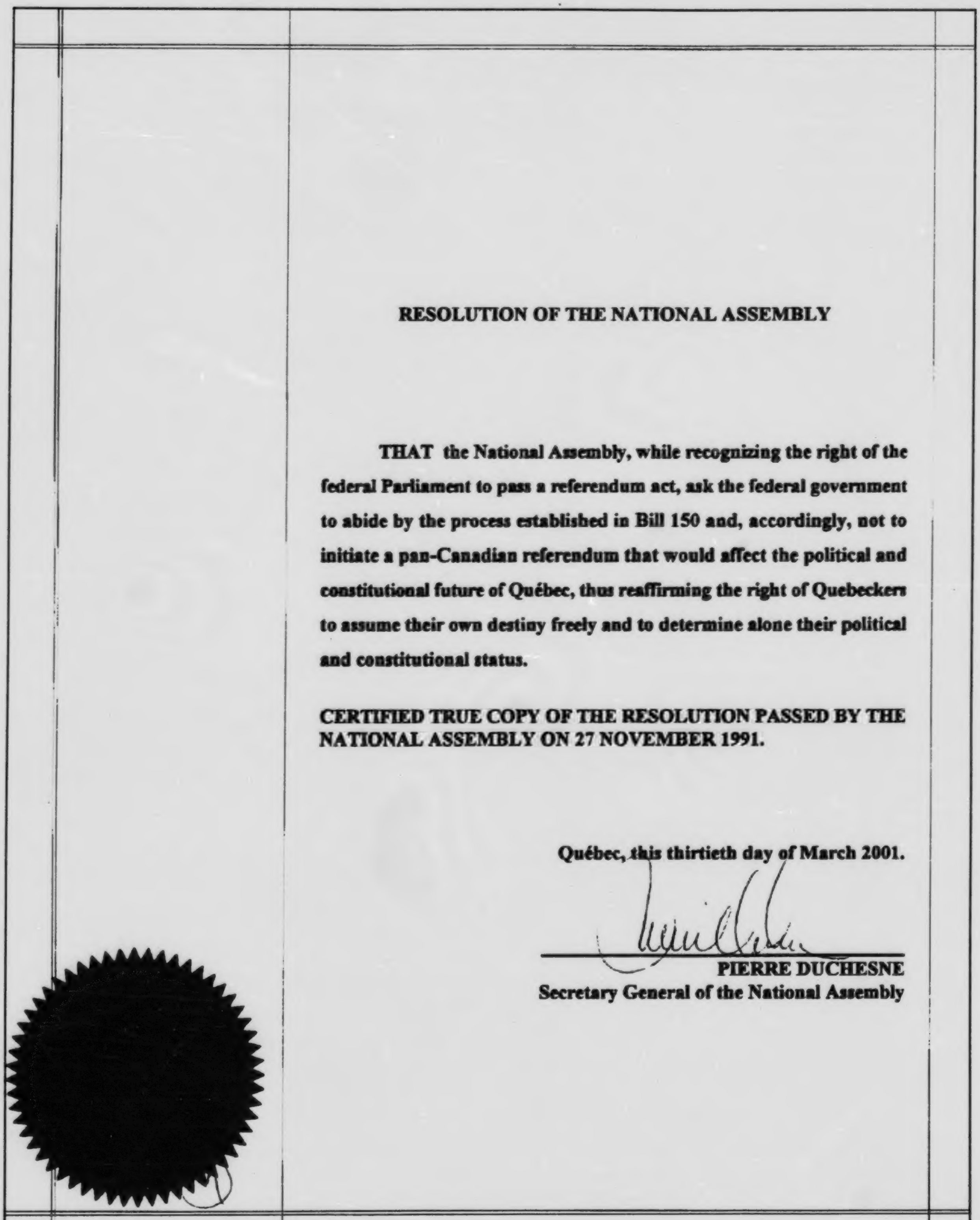
31. The committees established under this Act may hold sittings from 5 July 1991 even if all the written notices provided for in section 8 have not been transmitted to the President of the National Assembly.

Coming into force

32. This Act comes into force on 20 June 1991.

DOCUMENT 26

Resolution of the Québec National Assembly asking the federal government to abide by the process established in Bill 150, November 27, 1991.



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the National Assembly, while recognizing the right of the federal Parliament to pass a referendum act, ask the federal government to abide by the process established in Bill 150 and, accordingly, not to initiate a pan-Canadian referendum that would affect the political and constitutional future of Québec, thus reaffirming the right of Quebeckers to assume their own destiny freely and to determine alone their political and constitutional status.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 27 NOVEMBER 1991.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 27

Consensus Report on the Constitution: Final Text, Charlottetown, August 28, 1992, (Charlottetown Accord).

Consensus Report
On the Constitution

CHARLOTTETOWN

August 28, 1992

Final Text

TABLE OF CONTENTS

Page

PREFACE

I: UNITY AND DIVERSITY

A. PEOPLE AND COMMUNITIES 1

1. Canada Clause
2. Aboriginal Peoples and the Canadian Charter of Rights and Freedoms
3. Linguistic Communities in New Brunswick

B. CANADA'S SOCIAL AND ECONOMIC UNION 2

4. The Social and Economic Union
5. Economic Disparities, Equalization and Regional Development
6. The Common Market (*)

II: INSTITUTIONS

A. THE SENATE 4

7. An Elected Senate
8. An Equal Senate
9. Aboriginal Peoples' Representation in the Senate
10. Relationship to the House of Commons
11. Categories of Legislation
12. Approval of Legislation
13. Revenue and Expenditure Bills
14. Double Majority
15. Ratification of Appointments (*)
16. Eligibility for Cabinet

B. THE SUPREME COURT 7

17. Entrenchment in the Constitution
18. Composition
19. Nominations and Appointments
20. Aboriginal Peoples' Role (*)

C. HOUSE OF COMMONS 7

21. Composition of the House of Commons
22. Aboriginal Peoples' Representation (*)

D. FIRST MINISTERS' CONFERENCES 8
23. Entrenchment (*)

E. THE BANK OF CANADA 9

24. Bank of Canada

Page
III: ROLES AND RESPONSIBILITIES 9

25. Federal Spending Power
26. Protection of Intergovernmental Agreements
27. Immigration
28. Labour Market Development and Training (*)
29. Culture
30. Forestry (*)
31. Mining (*)
32. Tourism (*)
33. Housing (*)
34. Recreation (*)
35. Municipal and Urban Affairs (*)
36. Regional Development
37. Telecommunications
38. Federal Power of Disallowance and Reservation
39. Federal Declaratory Power
40. Aboriginal Peoples' Protection Mechanism

IV: FIRST PEOPLES

A. THE INHERENT RIGHT OF SELF-GOVERNMENT 14

41. The Inherent Right of Self-Government
42. Delayed Justiciability
43. Charter Issues
44. Land

B. METHOD OF EXERCISE OF THE RIGHT 15

45. Commitment to Negotiate
46. The Process of Negotiation (*)
47. Legal Transition and Consistency of Laws
48. Treaties

C. ISSUES RELATED TO THE EXERCISE OF THE RIGHT 17

49. Equity of Access to Section 35 Rights
50. Financing (*)
51. Affirmative Action Programs
52. Gender Equality
53. Future Aboriginal Constitutional Process
54. Section 91(24) (*)
55. Métis in Alberta/Section 91(24)
56. Métis Nation Accord (*)

V: THE AMENDING FORMULA 19

57. Changes to the National Institutions
58. Establishment of New Provinces
59. Compensation for Amendments that Transfer Jurisdiction
60. Aboriginal Consent

VI: OTHER ISSUES 20

NOTE: Asterisks in the table of contents indicate areas where the consensus on some issues under the heading is to proceed with a political accord.

PREFACE

This document is a product of a series of meetings on constitutional reform involving the federal, provincial and territorial governments and representatives of Aboriginal peoples.

These meetings were part of the Canada Round of constitutional renewal. On September 24, 1991, the Government of Canada tabled in the federal Parliament a set of proposals for the renewal of the Canadian federation entitled Shaping Canada's Future Together. These proposals were referred to a Special Joint Committee of the House of Commons and the Senate which travelled across Canada seeking views on the proposals. The Committee received 3,000 submissions and listened to testimony from 700 individuals.

During the same period, all provinces and territories created forums for public consultation on constitutional matters. These forums gathered reaction and advice with a view to producing recommendations to their governments. In addition, Aboriginal peoples were consulted by national and regional Aboriginal organizations.

An innovative forum for consultation with experts, advocacy groups and citizens was the series of six televised national conferences that took place between January and March of 1992.

Shortly before the release of the report of the Special Joint Committee on a Renewed Canada, the Prime Minister invited representatives of the provinces and territories and Aboriginal leaders to meet with the federal Minister of Constitutional Affairs to discuss the report.

At this initial meeting, held March 12, 1992 in Ottawa, participants agreed to proceed with a series of meetings with the objective of reaching consensus on a set of constitutional amendments. It was agreed that participants would make best efforts to reach consensus before the end of May, 1992 and that there would be no unilateral actions by any government while this process was under way. It was subsequently agreed to extend this series of meetings into June, and then into July.

To support their work, the heads of delegation agreed to establish a Coordinating Committee, composed of senior government officials and representatives of the four Aboriginal organizations. This committee, in turn, created four working groups to develop options and recommendations for consideration by the heads of delegation.

Recommendations made in the report of the Special Joint Committee on a Renewed Canada served as the basis of discussion, as did the recommendations of the various provincial and territorial consultations and the consultations with Aboriginal peoples. Alternatives and modifications to the proposals in these reports have been the principal subject of discussion at the multilateral meetings.

Including the initial session in Ottawa, there were twenty-seven days of meetings among the heads of delegation, as well as meetings of the Coordinating Committee and the four working groups. The schedule of the meetings during this first phase of meetings was:

March 12	Ottawa
April 8 and 9	Halifax
April 14	Ottawa
April 29 and 30	Edmonton
May 6 and 7	Saint John
May 11, 12 and 13	Vancouver
May 20, 21 and 22	Montreal
May 26, 27, 28, 29 and 30	Toronto
June 9, 10 and 11	Ottawa
June 28 and 29	Ottawa
July 3	Toronto
July 6 and 7	Ottawa

Following this series of meetings, the Prime Minister of Canada chaired a number of meetings of First Ministers, in which the Government of Quebec was a full participant. These include:

August 4	Harrington Lake
August 10	Harrington Lake
August 18, 19, 20, 21 and 22	Ottawa
August 27 and 28	Charlottetown

Organizational support for the full multilateral meetings has been provided by the Canadian Intergovernmental Conferences Secretariat.

In the course of the multilateral discussions, draft constitutional texts have been developed wherever possible in order to reduce uncertainty or ambiguity. In particular, a rolling draft of legal text was the basis of the discussion of issues affecting Aboriginal peoples. These drafts would provide the foundation of the formal legal resolutions to be submitted to Parliament and the legislatures.

In areas where the consensus was not unanimous, some participants chose to have their dissents recorded. Where requested, these dissents have been recorded in the chronological records of the meetings but are not recorded in this summary document.

Asterisks in the text that follows indicate the areas where the consensus is to proceed with a political accord.

- 1 -

I: UNITY AND DIVERSITY

A. PEOPLE AND COMMUNITIES

1. Canada Clause

A new clause should be included as section 2 of the Constitution Act, 1867 that would express fundamental Canadian values. The Canada Clause would guide the courts in their future interpretation of the entire Constitution, including the Canadian Charter of Rights and Freedoms.

The Constitution Act, 1867 is amended by adding thereto, immediately after section 1 thereof, the following section:

"2. (1) The Constitution of Canada, including the Canadian Charter of Rights and Freedoms, shall be interpreted in a manner consistent with the following fundamental characteristics:

(a) Canada is a democracy committed to a parliamentary and federal system of government and to the rule of law;

(b) the Aboriginal peoples of Canada, being the first peoples to govern this land, have the right to promote their languages, cultures and traditions and to ensure the integrity of their societies, and their governments constitute one of three orders of government in Canada;

(c) Quebec constitutes within Canada a distinct society, which includes a French-speaking majority, a unique culture and a civil law tradition;

(d) Canadians and their governments are committed to the vitality and development of official language minority communities throughout Canada;

(e) Canadians are committed to racial and ethnic equality in a society that includes citizens from many lands who have contributed, and continue to contribute, to the building of a strong Canada that reflects its cultural and racial diversity;

(f) Canadians are committed to a respect for individual and collective human rights and freedoms of all people;

(g) Canadians are committed to the equality of female and male persons; and

(h) Canadians confirm the principle of the equality of the provinces at the same time as recognizing their diverse characteristics.

(2) The role of the legislature and Government of Quebec to preserve and promote the distinct society of Quebec is affirmed.

(3) Nothing in this section derogates from the powers, rights or privileges of the Parliament or the Government of Canada, or of the legislatures or governments of the provinces, or of the legislative bodies or governments of the Aboriginal peoples of Canada, including any powers, rights or privileges relating to language and, for greater certainty, nothing in this section derogates from the aboriginal and treaty rights of the Aboriginal peoples of Canada."

2. Aboriginal Peoples and the Canadian Charter of Rights and Freedoms

The Charter provision dealing with Aboriginal peoples (section 25, the non-derogation clause) should be strengthened to ensure that nothing in the Charter abrogates or derogates from Aboriginal, treaty or other rights of Aboriginal peoples, and in particular any rights or freedoms relating to the exercise or protection of their languages, cultures or traditions.

3. Linguistic Communities in New Brunswick

A separate constitutional amendment requiring only the consent of Parliament and the legislature of New Brunswick should be added to the Canadian Charter of Rights and Freedoms. The amendment would entrench the equality of status of the English and French linguistic communities in New Brunswick, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of these communities. The amendment would also affirm the role of the legislature and government of New Brunswick to preserve and promote this equality of status.

B. CANADA'S SOCIAL AND ECONOMIC UNION

4. The Social and Economic Union

A new provision should be added to the Constitution describing the commitment of the governments, Parliament and the legislatures within the federation to the principle of the preservation and development of Canada's social and economic union. The new provision, entitled The Social and Economic Union, should be drafted to set out a series of policy objectives underlying the social and the economic union, respectively. The provision should not be justiciable.

The policy objectives set out in the provision on the social union should include, but not be limited to:

- providing throughout Canada a health care system that is comprehensive, universal, portable, publicly administered and accessible;
- providing adequate social services and benefits to ensure that all individuals resident in Canada have reasonable access to housing, food and other basic necessities;
- providing high quality primary and secondary education to all individuals resident in Canada and ensuring reasonable access to post-secondary education;
- protecting the rights of workers to organize and bargain collectively; and,
- protecting, preserving and sustaining the integrity of the environment for present and future generations.

The policy objectives set out in the provision on the economic union should include, but not be limited to:

- working together to strengthen the Canadian economic union;
- the free movement of persons, goods, services and capital;
- the goal of full employment;
- ensuring that all Canadians have a reasonable standard of living; and,
- ensuring sustainable and equitable development.

A mechanism for monitoring the Social and Economic Union should be determined by a First Ministers' Conference.

A clause should be added to the Constitution stating that the Social and Economic Union does not abrogate or derogate from the Canadian Charter of Rights and Freedoms.

5. Economic Disparities, Equalization and Regional Development

Section 36 of the Constitution Act, 1982 currently commits Parliament and the Government of Canada and the governments and legislatures of the provinces to promote equal opportunities and economic development throughout the country and to provide reasonably comparable levels of public services to all Canadians. Subsection 36(2) currently commits the federal government to the principle of equalization payments. This section should be amended to read as follows:

> Parliament and the Government of Canada are committed to making equalization payments so that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

Subsection 36(1) should be expanded to include the territories.

Subsection 36(1) should be amended to add a commitment to ensure the provision of reasonably comparable economic infrastructures of a national nature in each province and territory.

The Constitution should commit the federal government to meaningful consultation with the provinces before introducing legislation relating to equalization payments.

A new Subsection 36(3) should be added to entrench the commitment of governments to the promotion of regional economic development to reduce economic disparities.

Regional development is also discussed in item 36 of this document.

6. The Common Market

Section 121 of the Constitution Act, 1867 would remain unchanged.

Detailed principles and commitments related to the Canadian Common Market are included in the political accord of August 28, 1992. First Ministers will decide on the best approach to implement these principles and commitments at a future First Ministers' Conference on the economy. First Ministers would have the authority to create an independent dispute resolution agency and decide on its role, mandate and composition. (*)

II: INSTITUTIONS

A. THE SENATE

7. An Elected Senate

The Constitution should be amended to provide that Senators are elected, either by the population of the provinces and territories of Canada or by the members of their provincial or territorial legislative assemblies.

Federal legislation should govern Senate elections, subject to the constitutional provision above and constitutional provisions requiring that elections take place at the same time as elections to the House of Commons and provisions respecting eligibility and mandate of Senators. Federal legislation would be sufficiently flexible to allow provinces and territories to provide for gender equality in the composition of the Senate.

Matters should be expedited in order that Senate elections be held as soon as possible, and, if feasible, at the same time as the next federal general election for the House of Commons.

8. An Equal Senate

The Senate should initially total 62 Senators and should be composed of six Senators from each province and one Senator from each territory.

9. Aboriginal Peoples' Representation in the Senate

Aboriginal representation in the Senate should be guaranteed in the Constitution. Aboriginal Senate seats should be additional to provincial and territorial seats, rather than drawn from any province or territory's allocation of Senate seats.

Aboriginal Senators should have the same role and powers as other Senators, plus a possible double majority power in relation to certain matters materially affecting Aboriginal people. These issues and other details relating to Aboriginal representation in the Senate (numbers, distribution, method of selection) will be discussed further by governments and the representatives of the Aboriginal peoples in the early autumn of 1992 (*).

10. Relationship to the House of Commons

The Senate should not be a confidence chamber. In other words, the defeat of government-sponsored legislation by the Senate would not require the government's resignation.

11. Categories of Legislation

There should be four categories of legislation:

1) Revenue and expenditure bills ("Supply bills");

2) Legislation materially affecting French language or French culture;

3) Bills involving fundamental tax policy changes directly related to natural resources;

4) Ordinary legislation (any bill not falling into one of the first three categories).

Initial classification of bills should be by the originator of the bill. With the exception of legislation affecting French language or French culture (see item 14), appeals should be determined by the Speaker of the House of Commons, following consultation with the Speaker of the Senate.

12. Approval of Legislation

The Constitution should oblige the Senate to dispose of any bills approved by the House of Commons, within thirty sitting days of the House of Commons, with the exception of revenue and expenditure bills.

Revenue and expenditure bills would be subject to a 30 calendar-day suspensive veto. If a bill is defeated or amended by the Senate within this period, it could be repassed by a majority vote in the House of Commons on a resolution.

Bills that materially affect French language or French culture would require approval by a majority of Senators voting and by a majority of the Francophone Senators voting. The House of Commons would not be able to override the defeat of a Bill in this category by the Senate.

Bills that involve fundamental tax policy changes directly related to natural resources would be defeated if a majority of Senators voting cast their votes against the bill. The House of Commons would not be able to override the Senate's veto. The precise definition of this category of legislation remains to be determined.

Defeat or amendment of ordinary legislation by the Senate would trigger a joint sitting process with the House of Commons. A simple majority vote at the joint sitting would determine the outcome of the bill.

The Senate should have the powers set out in this Consensus Report. There would be no change to the Senate's current role in approving constitutional amendments. Subject to the Consensus Report, Senate powers and procedures should mirror those in the House of Commons.

The Senate should continue to have the capacity to initiate bills, except for money bills.

If any bill initiated and passed by the Senate is amended or rejected by the House of Commons, a joint sitting process should be triggered automatically.

The House of Commons should be obliged to dispose of legislation approved by the Senate within a reasonable time limit.

13. Revenue and Expenditure Bills

In order to preserve Canada's parliamentary traditions, the Senate should not be able to block the routine flow of legislation relating to taxation, borrowing and appropriation.

Revenue and expenditure bills ("supply bills") should be defined as only those matters involving borrowing, the raising of revenue and appropriation as well as matters subordinate to these issues. This definition should exclude fundamental policy changes to the tax system (such as the Goods and Services Tax and the National Energy Program).

14. Double Majority

The originator of a bill should be responsible for designating whether it materially affects French language or French culture. Each designation should be subject to appeal to the Speaker of the Senate under rules to be established by the Senate. These rules should be designed to provide adequate protection to Francophones.

On entering the Senate, Senators should be required to declare whether they are Francophones for the purpose of the double majority voting rule. Any process for challenging these declarations should be left to the rules of the Senate.

15. Ratification of Appointments

The Constitution should specify that the Senate ratify the appointment of the Governor of the Bank of Canada.

The Constitution should also be amended to provide the Senate with a new power to ratify other key appointments made by the federal government.

The Senate should be obliged to deal with any proposed appointments within thirty sitting-days of the House of Commons.

The appointments that would be subject to Senate ratification, including the heads of the national cultural institutions and the heads of federal regulatory boards and agencies, should be set out in specific federal legislation rather than the Constitution. The federal government's commitment to table such legislation should be recorded in a political accord (*).

An appointment submitted for ratification would be rejected if a majority of Senators voting cast their votes against it.

16. Eligibility for Cabinet

Senators should not be eligible for Cabinet posts.

B. THE SUPREME COURT

17. Entrenchment in the Constitution

The Supreme Court should be entrenched in the Constitution as the general court of appeal for Canada.

18. Composition

The Constitution should entrench the current provision of the Supreme Court Act, which specifies that the Supreme Court is to be composed of nine members, of whom three must have been admitted to the bar of Quebec (civil law bar).

19. Nominations and Appointments

The Constitution should require the federal government to name judges from lists submitted by the governments of the provinces and territories. A provision should be made in the Constitution for the appointment of interim judges if a list is not submitted on a timely basis or no candidate is acceptable.

20. Aboriginal Peoples' Role

The structure of the Supreme Court should not be modified in this round of constitutional discussions. The role of Aboriginal peoples in relation to the Supreme Court should be recorded in a political accord and should be on the agenda of a future First Ministers' Conference on Aboriginal issues (*).

Provincial and territorial governments should develop a reasonable process for consulting representatives of the Aboriginal peoples of Canada in the preparation of lists of candidates to fill vacancies on the Supreme Court (*).

Aboriginal groups should retain the right to make representations to the federal government respecting candidates to fill vacancies on the Supreme Court (*).

The federal government should examine, in consultation with Aboriginal groups, the proposal that an Aboriginal Council of Elders be entitled to make submissions to the Supreme Court when the court considers Aboriginal issues (*).

C. HOUSE OF COMMONS

21. Composition of the House of Commons

The composition of the House of Commons should be adjusted to better reflect the principle of representation by population. The adjustment should include an initial increase in the size of the House of Commons to 337 seats, to be made at the time Senate reform comes into effect. Ontario and Quebec would each be assigned eighteen additional seats, British Columbia four additional seats, and Alberta two additional seats, with boundaries to be developed using the 1991 census.

An additional special Canada-wide redistribution of seats should be conducted following the 1996 census, aimed at ensuring that, in the first subsequent general election, no province will have fewer than 95% of the House of Commons seats it would receive under strict representation-by-population. Consequently, British Columbia and Ontario would each be assigned three additional seats and Alberta two additional seats. As a result of this special adjustment, no province or territory will lose seats, nor will a province or territory which has achieved full representation-by-population have a smaller share of House of Commons seats than its share of the total population in the 1996 census.

The redistribution based on the 1996 census and all future redistributions should be governed by the following constitutional provisions:

(a) A guarantee that Quebec would be assigned no fewer than 25 percent of the seats in the House of Commons;

(b) The current Section 41(b) of the Constitution Act, 1982, the "fixed floor", would be retained;

(c) Section 51A of the Constitution Act, 1867, the "rising floor", would be repealed;

(d) A new provision that would ensure that no province could have fewer Commons seats than another province with a smaller population, subject to the provision in item (a) above;

(e) The current provision that allocates two seats to the Northwest Territories and one seat to Yukon would be retained.

A permanent formula should be developed and Section 51 of the Constitution Act, 1867 should be adjusted to accommodate demographic change, taking into consideration the principles suggested by the Royal Commission on Electoral Reform and Party Financing.

22. Aboriginal Peoples' Representation

The issue of Aboriginal representation in the House of Commons should be pursued by Parliament, in consultation with representatives of the Aboriginal peoples of Canada, after it has received the final report of the House of Commons Committee studying the recommendations of the Royal Commission on Electoral Reform and Party Financing (*).

D. FIRST MINISTERS' CONFERENCES

23. Entrenchment

A provision should be added to the Constitution requiring the Prime Minister to convene a First Ministers' Conference at least once a year. The agendas for these conferences should not be specified in the Constitution.

The leaders of the territorial governments should be invited to participate in any First Ministers' Conference convened pursuant to this constitutional provision. Representatives of the Aboriginal peoples of Canada should be invited to participate in discussions on any item on the agenda of a First Ministers' Conference that directly affects the Aboriginal peoples. This should be embodied in a political accord (*).

The role and responsibilities of First Ministers with respect to the federal spending power are outlined at item 25 of this document.

E. THE BANK OF CANADA

24. Bank of Canada

The Bank of Canada was discussed and the consensus was that this issue should not be pursued in this round, except for the consensus that the Senate should have a role in ratifying the appointment of its Governor.

III: ROLES AND RESPONSIBILITIES

25. Federal Spending Power

A provision should be added to the Constitution stipulating that the Government of Canada must provide reasonable compensation to the government of a province that chooses not to participate in a new Canada-wide shared-cost program that is established by the federal government in an area of exclusive provincial jurisdiction, if that province carries on a program or initiative that is compatible with the national objectives.

A framework should be developed to guide the use of the federal spending power in all areas of exclusive provincial jurisdiction. Once developed, the framework could become a multilateral agreement that would receive constitutional protection using the mechanism described in Item 26 of this report. The framework should ensure that when the federal spending power is used in areas of exclusive provincial jurisdiction, it should:

(a) contribute to the pursuit of national objectives;

(b) reduce overlap and duplication;

(c) not distort and should respect provincial priorities; and

(d) ensure equality of treatment of the provinces, while recognizing their different needs and circumstances.

The Constitution should commit First Ministers to establishing such a framework at a future conference of First Ministers. Once it is established, First Ministers would assume a role in annually reviewing progress in meeting the objectives set out in the framework.

A provision should be added (as Section 106A(3)) that would ensure that nothing in the section that limits the federal spending power affects the commitments of Parliament and the Government of Canada that are set out in Section 36 of the Constitution Act, 1982.

26. Protection of Intergovernmental Agreements

The Constitution should be amended to provide a mechanism to ensure that designated agreements between governments are protected from unilateral change. This would occur when Parliament and the legislature(s) enact laws approving the agreement.

Each application of the mechanism should cease to have effect after a maximum of five years but could be renewed by a vote of Parliament and the legislature(s) readopting similar legislation. Governments of Aboriginal peoples should have access to this mechanism. The provision should be available to protect both bilateral and multilateral agreements among federal, provincial and territorial governments, and the governments of Aboriginal Peoples. A government negotiating an agreement should be accorded equality of treatment in relation to any government which has already concluded an agreement, taking into account different needs and circumstances.

It is the intention of governments to apply this mechanism to future agreements related to the Canada Assistance Plan (*).

27. Immigration

A new provision should be added to the Constitution committing the Government of Canada to negotiate agreements with the provinces relating to immigration.

The Constitution should oblige the federal government to negotiate and conclude within a reasonable time an immigration agreement at the request of any province. A government negotiating an agreement should be accorded equality of treatment in relation to any government which has already concluded an agreement, taking into account different needs and circumstances.

28. Labour Market Development and Training

Exclusive federal jurisdiction for unemployment insurance, as set out in Section 91(2A) of the Constitution Act, 1867, should not be altered. The federal government should retain exclusive jurisdiction for income support and its related services delivered through the Unemployment Insurance system. Federal spending on job creation programs should be protected through a constitutional provision or a political accord (*).

Labour market development and training should be identified in section 92 of the Constitution as a matter of exclusive provincial jurisdiction. Provincial legislatures should have the authority to constrain federal spending that is directly related to labour market development and training. This should be accomplished through justiciable intergovernmental agreements designed to meet the circumstances of each province.

At the request of a province, the federal government would be obligated to withdraw from any or all training activities and from any or all labour market development activities, except Unemployment Insurance. The federal government should be required to negotiate and conclude agreements to provide reasonable compensation to provinces requesting that the federal government withdraw.

The Government of Canada and the government of the province that requested the federal government to withdraw should conclude agreements within a reasonable time.

Provinces negotiating agreements should be accorded equality of treatment with respect to terms and conditions of agreements in relation to any other province that has already concluded an agreement, taking into account the different needs and circumstances of the provinces.

The federal, provincial and territorial governments should commit themselves in a political accord to enter into administrative arrangements to improve efficiency and client service and ensure effective coordination of federal Unemployment Insurance and provincial employment functions (*).

As a safeguard, the federal government should be required to negotiate and conclude an agreement within a reasonable time, at the request of any province not requesting the federal government to withdraw, to maintain its labour market development and training programs and activities in that province. A similar safeguard should be available to the territories.

There should be a constitutional provision for an ongoing federal role in the establishment of national policy objectives for the national aspects of labour market development. National labour market policy objectives would be established through a process which could be set out in the Constitution including the obligation for presentation to Parliament for debate. Factors to be considered in the establishment of national policy objectives could include items such as national economic conditions, national labour market requirements, international labour market trends and changes in international economic conditions. In establishing national policy objectives, the federal government would take into account the different needs and circumstances of the provinces; and there would be a provision, in the Constitution or in a political accord, committing the federal, provincial and territorial governments to support the development of common occupational standards, in consultation with employer and employee groups (*).

Provinces that negotiated agreements to constrain the federal spending power should be obliged to ensure that their labour market development programs are compatible with the national policy objectives, in the context of different needs and circumstances.

Considerations of service to the public in both official languages should be included in a political accord and be discussed as part of the negotiation of bilateral agreements (*).

The concerns of Aboriginal peoples in this field will be dealt with through the mechanisms set out in item 40 below.

29. Culture

Provinces should have exclusive jurisdiction over cultural matters within the provinces. This should be recognized through an explicit constitutional amendment that also recognizes the continuing responsibility of the federal government in Canadian cultural matters. The federal government should retain responsibility for national cultural institutions, including grants and contributions delivered by these institutions. The Government of Canada commits to negotiate cultural agreements with provinces in recognition of their lead responsibility for cultural matters within the province and to ensure that the federal government and the province work in harmony. These changes should not alter the federal fiduciary responsibility for Aboriginal people. The non-derogation provisions for Aboriginal peoples set out in item 40 of this document will apply to culture.

30. Forestry

Exclusive provincial jurisdiction over forestry should be recognized and clarified through an explicit constitutional amendment.

Provincial legislatures should have the authority to constrain federal spending that is directly related to forestry.

This should be accomplished through justiciable intergovernmental agreements, designed to meet the specific circumstances of each province. The mechanism used would be the one set out in item 26 of this document, including a provision for equality of treatment with respect to terms and conditions. Considerations of service to the public in both official languages should be considered a possible part of such agreements (*).

Such an agreement should set the terms for federal withdrawal, including the level and form of financial resources to be transferred. In addition, a political accord could specify the form the compensation would take (i.e. cash transfers, tax points, or others)(*). Alternatively, such an agreement could require the federal government to maintain its spending in that province. A similar safeguard should be available to the territories. The federal government should be obliged to negotiate and conclude such an agreement within a reasonable time.

These changes and the ones set out in items 31, 32, 33, 34 and 35 should not alter the federal fiduciary responsibility for Aboriginal people. The provisions set out in item 40 would apply.

31. Mining

Exclusive provincial jurisdiction over mining should be recognized and clarified through an explicit constitutional amendment and the negotiation of federal-provincial agreements. This should be done in the same manner as set out above with respect to forestry (*).

32. Tourism

Exclusive provincial jurisdiction over tourism should be recognized and clarified through an explicit constitutional amendment and the negotiation of federal-provincial agreements. This should be done in the same manner as set out above with respect to forestry (*).

33. Housing

Exclusive provincial jurisdiction over housing should be recognized and clarified through an explicit constitutional amendment and the negotiation of federal-provincial agreements. This should be done in the same manner as set out above with respect to forestry (*).

34. Recreation

Exclusive provincial jurisdiction over recreation should be recognized and clarified through an explicit constitutional amendment and the negotiation of federal-provincial agreements. This should be done in the same manner as set out above with respect to forestry (*).

35. Municipal and Urban Affairs

Exclusive provincial jurisdiction over municipal and urban affairs should be recognized and clarified through an explicit constitutional amendment and the negotiation of federal-provincial agreements. This should be done in the same manner as set out above with respect to forestry (*).

36. Regional Development

In addition to the commitment to regional development to be added to Section 36 of the Constitution Act, 1982 (described in item 5 of this document), a provision should be added to the Constitution that would oblige the federal government to negotiate an agreement at the request of any province with respect to regional development. Such agreements could be protected under the provision set out in item 26 ("Protection of Intergovernmental Agreements"). Regional development should not become a separate head of power in the constitution.

37. Telecommunications

The federal government should be committed to negotiate agreements with the provincial governments to coordinate and harmonize the procedures of their respective regulatory agencies in this field. Such agreements could be protected under the provision set out in item 26 ("Protection of Intergovernmental Agreements").

38. Federal Power of Disallowance and Reservation

This provision of the Constitution should be repealed. Repeal requires unanimity.

39. Federal Declaratory Power

Section 92(10)(c) of the Constitution Act, 1867 permits the federal government to declare a "work" to be for the general advantage of Canada and bring it under the legislative jurisdiction of Parliament. This provision should be amended to ensure that the declaratory power can only be applied to new works or rescinded with respect to past declarations with the explicit consent of the province(s) in which the work is situated. Existing declarations should be left undisturbed unless all of the legislatures affected wish to take action.

40. Aboriginal Peoples' Protection Mechanism

There should be a general non-derogation clause to ensure that division of powers amendments will not affect the rights of the Aboriginal peoples and the jurisdictions and powers of governments of Aboriginal peoples.

IV: FIRST PEOPLES

Note: References to the territories will be added to the legal text with respect to this section, except where clearly inappropriate. Nothing in the amendments would extend the powers of the territorial legislatures.

A. THE INHERENT RIGHT OF SELF-GOVERNMENT

41. The Inherent Right of Self-Government

The Constitution should be amended to recognize that the Aboriginal peoples of Canada have the inherent right of self-government within Canada. This right should be placed in a new section of the Constitution Act, 1982, section 35.1(1).

The recognition of the inherent right of self-government should be interpreted in light of the recognition of Aboriginal governments as one of three orders of government in Canada.

A contextual statement should be inserted in the Constitution, as follows:

The exercise of the right of self-government includes the authority of the duly constituted legislative bodies of Aboriginal peoples, each within its own jurisdiction:

(a) to safeguard and develop their languages, cultures, economies, identities, institutions and traditions; and,

(b) to develop, maintain and strengthen their relationship with their lands, waters and environment

so as to determine and control their development as peoples according to their own values and priorities and ensure the integrity of their societies.

Before making any final determination of an issue arising from the inherent right of self-government, a court or tribunal should take into account the contextual statement referred to above, should enquire into the efforts that have been made to resolve the issue through negotiations and should be empowered to order the parties to take such steps as are appropriate in the circumstances to effect a negotiated resolution.

42. Delayed Justiciability

The inherent right of self-government should be entrenched in the Constitution. However, its justiciability should be delayed for a five-year period through constitutional language and a political accord (*).

Delaying the justiciability of the right should be coupled with a constitutional provision which would shield Aboriginal rights.

Delaying the justiciability of the right will not make the right contingent and will not affect existing Aboriginal and treaty rights.

The issue of special courts or tribunals should be on the agenda of the first Ministers' Conference on Aboriginal Constitutional matters referred to in item 53.(*).

43. Charter Issues

The Canadian Charter of Rights and Freedoms should apply immediately to governments of Aboriginal peoples.

A technical change should be made to the English text of Sections 3, 4 and 5 of the Canadian Charter of Rights and Freedoms to ensure that it corresponds to the French text.

The legislative bodies of Aboriginal peoples should have access to section 33 of the Constitution Act, 1982 (the notwithstanding clause) under conditions that are similar to those applying to Parliament and the provincial legislatures but which are appropriate to the circumstances of Aboriginal peoples and their legislative bodies.

44. Land

The specific constitutional provision on the inherent right and the specific constitutional provision on the commitment to negotiate land should not create new Aboriginal rights to land or derogate from existing aboriginal or treaty rights to land, except as provided for in self-government agreements.

B. METHOD OF EXERCISE OF THE RIGHT

45. Commitment to Negotiate

There should be a constitutional commitment by the federal and provincial governments and the Indian, Inuit and Métis peoples in the various regions and communities of Canada to negotiate in good faith with the objective of concluding agreements elaborating the relationship between Aboriginal governments and the other orders of government. The negotiations would focus on the implementation of the right of self-government including issues of jurisdiction, lands and resources, and economic and fiscal arrangements.

46. The Process of Negotiation

Political Accord on Negotiation and Implementation

- A political accord should be developed to guide the process of self-government negotiations (*).

Equity of Access

- All Aboriginal peoples of Canada should have equitable access to the process of negotiation.

Trigger for Negotiations

- Self-government negotiations should be initiated by the representatives of Aboriginal peoples when they are prepared to do so.

Provision for Non-Ethnic Governments

- Self-government agreements may provide for self-government institutions which are open to the participation of all residents in a region covered by the agreement.

Provision for Different Circumstances

- Self-government negotiations should take into consideration the different circumstances of the various Aboriginal peoples.

Provision for Agreements

- Self-government agreements should be set out in future treaties, including land claims agreements or amendments to existing treaties, including land claims agreements. In addition, self-government agreements could be set out in other agreements which may contain a declaration that the rights of the Aboriginal peoples are treaty rights, within the meaning of Section 35(1) of the Constitution Act, 1982.

Ratification of Agreements

- There should be an approval process for governments and Aboriginal peoples for self-government agreements, involving Parliament, the legislative assemblies of the relevant provinces and/or territories and the legislative bodies of the Aboriginal peoples. This principle should be expressed in the ratification procedures set out in the specific self-government agreements.

Non-Derogation Clause

- There should be an explicit statement in the Constitution that the commitment to negotiate does not make the right of self-government contingent on negotiations or in any way affect the justiciability of the right of self-government.

Dispute Resolution Mechanism

- To assist the negotiation process, a dispute resolution mechanism involving mediation and arbitration should be established. Details of this mechanism should be set out in a political accord (*).

47. Legal Transition and Consistency of Laws

A constitutional provision should ensure that federal and provincial laws will continue to apply until they are displaced by laws passed by governments of Aboriginal peoples pursuant to their authority.

A constitutional provision should ensure that a law passed by a government of Aboriginal peoples, or an assertion of its authority based on the inherent right provision may not be inconsistent with those laws which are essential to the preservation of peace, order and good government in Canada. However, this provision would not extend the legislative authority of Parliament or of the legislatures of the provinces.

48. Treaties

With respect to treaties with Aboriginal peoples, the Constitution should be amended as follows:

- treaty rights should be interpreted in a just, broad and liberal manner taking into account the spirit and intent of the treaties and the context in which the specific treaties were negotiated;

- the Government of Canada should be committed to establishing and participating in good faith in a joint process to clarify or implement treaty rights, or to rectify terms of treaties when agreed to by the parties. The governments of the provinces should also be committed, to the extent that they have jurisdiction, to participation in the above treaty process when invited by the government of Canada and the Aboriginal peoples concerned or where specified in a treaty;

- participants in this process should have regard, among other things and where appropriate, to the spirit and intent of the treaties as understood by Aboriginal peoples. It should be confirmed that all Aboriginal peoples that possess treaty rights shall have equitable access to this treaty process;

- it should be provided that these treaty amendments shall not extend the authority of any government or legislature, or affect the rights of Aboriginal peoples not party to the treaty concerned.

C. ISSUES RELATED TO THE EXERCISE OF THE RIGHT

49. Equity of Access to Section 35 Rights

The Constitution should provide that all of the Aboriginal peoples of Canada have access to those Aboriginal and treaty rights recognized and affirmed in Section 35 of the Constitution Act, 1982 that pertain to them.

50. Financing

Matters relating to the financing of governments of Aboriginal peoples should be dealt with in a political accord. The accord would commit the governments of Aboriginal peoples to:

- promoting equal opportunities for the well-being of all Aboriginal peoples;

- furthering economic, social and cultural development and employment opportunities to reduce disparities in opportunities among Aboriginal peoples and between Aboriginal peoples and other Canadians; and

- providing essential public services at levels reasonably comparable to those available to other Canadians in the vicinity.

It would also commit federal and provincial governments to the principle of providing the governments of Aboriginal peoples with fiscal or other resources, such as land, to assist those governments to govern their own affairs and to meet the commitments listed above, taking into account the levels of services provided to other Canadians in the vicinity and the fiscal capacity of governments of Aboriginal peoples to raise revenues from their own sources.

The issues of financing and its possible inclusion in the Constitution should be on the agenda of the first Ministers' Conference on Aboriginal Constitutional matters referred to in item 53 (*).

51. Affirmative Action Programs

The Constitution should include a provision which authorizes governments of Aboriginal Peoples to undertake affirmative action programs for socially and economically disadvantaged individuals or groups and programs for the advancement of Aboriginal languages and cultures.

52. Gender Equality

Section 35 (4) of the Constitution Act, 1982, which guarantees existing Aboriginal and treaty rights equally to male and female persons should be retained. The issue of gender equality should be on the agenda of the first Ministers' Conference on Aboriginal Constitutional matters referred to under item 53 (*).

53. Future Aboriginal Constitutional Process

The Constitution should be amended to provide for four future First Ministers' Conferences on Aboriginal constitutional matters beginning no later than 1996, and following every two years thereafter. These conferences would be in addition to any other First Ministers' Conferences required by the Constitution. The agendas of these conferences would include items identified in this report and items requested by Aboriginal peoples.

54. Section 91(24)

For greater certainty, a new provision should be added to the Constitution Act, 1867 to ensure that Section 91(24) applies to all Aboriginal peoples.

The new provision would not result in a reduction of existing expenditures by governments on Indians and Inuit or alter the fiduciary and treaty obligations of the federal government for Aboriginal peoples. This would be reflected in a political accord (*).

55. Métis in Alberta/Section 91(24)

The Constitution should be amended to safeguard the legislative authority of the Government of Alberta for Métis and Métis Settlements lands. There was agreement to a proposed amendment to the Alberta Act that would constitutionally protect the status of the land held in fee simple by the Métis Settlements General Council under letters patent from Alberta.

56. Métis Nation Accord (*)

The federal government, the provinces of Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Métis National Council have agreed to enter into a legally binding, justiciable and enforceable accord on Métis Nation issues. Technical drafting of the Accord is being completed. The Accord sets out the obligations of the federal and provincial governments and the Métis Nation.

The Accord commits governments to negotiate: self-government agreements; lands and resources; the transfer of the portion of Aboriginal programs and services available to Métis; and cost sharing arrangements relating to Métis institutions, programs and services.

Provinces and the federal government agree not to reduce existing expenditures on Métis and other Aboriginal people as a result of the Accord or as a result of an amendment to section 91(24). The Accord defines the Métis for the purposes of the Métis Nation Accord and commits governments to enumerate and register the Métis Nation.

V: THE AMENDING FORMULA

Note: All of the following changes to the amending formula require the unanimous agreement of Parliament and the provincial legislatures.

57. Changes to National Institutions

Amendments to provisions of the Constitution related to the Senate should require unanimous agreement of Parliament and the provincial legislatures, once the current set of amendments related to Senate reform has come into effect. Future amendments affecting the House of Commons, including Quebec's guarantee of at least 25 percent of the seats in the House of Commons, and amendments which can now be made under s.42 should also require unanimity.

Sections 41 and 42 of the Constitution Act, 1982 should be amended so that the nomination and appointment process of Supreme Court judges would remain subject to the general (7/50) amending procedure. All other matters related to the Supreme Court, including its entrenchment, its role as the general court of appeal and its composition, would be matters requiring unanimity.

58. Establishment of New Provinces

The current provisions of the amending formula governing the creation of new provinces should be rescinded. They should be replaced by the pre-1982 provisions allowing the creation of new provinces through an Act of Parliament, following consultation with all of the existing provinces at a First Ministers' Conference. New provinces should not have a role in the amending formula without the unanimous consent of all of the provinces and the federal government, with the exception of purely bilateral or unilateral matters described in Sections 38(3), 40, 43, 45 and 46 as it relates to 43, of the Constitution Act, 1982. Any increase in the representation for new provinces in the Senate should also require the unanimous consent of all provinces and the federal government. Territories that become provinces could not lose Senators or members of the House of Commons.

The provision now contained in Section 42(1)(e) of the Constitution Act, 1982 with respect with the extension of provincial boundaries into the Territories should be repealed and replaced by the Constitution Act, 1871, modified in order to require the consent of the Territories.

59. Compensation for Amendments that Transfer Jurisdiction

Where an amendment is made under the general amending formula that transfers legislative powers from provincial legislatures to Parliament, Canada should provide reasonable compensation to any province that opts out of the amendment.

60. Aboriginal Consent

There should be Aboriginal consent to future constitutional amendments that directly refer to the Aboriginal peoples. Discussions are continuing on the mechanism by which this consent would be expressed with a view to agreeing on a mechanism prior to the introduction in Parliament of formal resolutions amending the Constitution.

VI: OTHER ISSUES

Other constitutional issues were discussed during the multilateral meetings.

The consensus was not pursue the following issues:

- personal bankruptcy and insolvency
- intellectual property
- interjurisdictional immunity
- inland fisheries
- marriage and divorce
- residual power
- legislative interdelegation
- changes to the "notwithstanding clause"
- Section 96 (appointment of judges)
- Section 125 (taxation of federal and provincial governments)
- Section 92A (export of natural resources)
- requiring notice for changes to federal legislation respecting equalization payments
- property rights
- implementation of international treaties

Other issues were discussed but were not finally resolved, among which were:

- requiring notice for changes to federal legislation respecting Established Programs Financing
- establishing in a political accord a formal federal-provincial consultation process with regard to the negotiation of international treaties and agreements
- Aboriginal participation in intergovernmental agreements respecting the division of powers
- establishing a framework for compensation issues with respect to labour market development and training
- consequential amendments related to Senate reform, including by-elections
- any other consequential amendments required by changes recommended in this report

DOCUMENT 28

An Act to amend the Act respecting the process for determining the political and constitutional future of Québec (Assented to September 8, 1992).

CHAPTER 47

An Act to amend the Act respecting the process for determining the political and constitutional future of Québec

[*Assented to 8 September 1992*]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1991, c. 34, preamble, am.

1. The preamble to the Act respecting the process for determining the political and constitutional future of Québec (1991, chapter 34) is amended by striking out the words "on the sovereignty of Québec" in the second line of the last paragraph.

1991, c. 34, Chap. I, replaced

2. Chapter I of the said Act is replaced by the following chapter:

"CHAPTER I

"REFERENDUM ON AN AGREEMENT CONCERNING A NEW CONSTITUTIONAL PARTNERSHIP

Subject and date

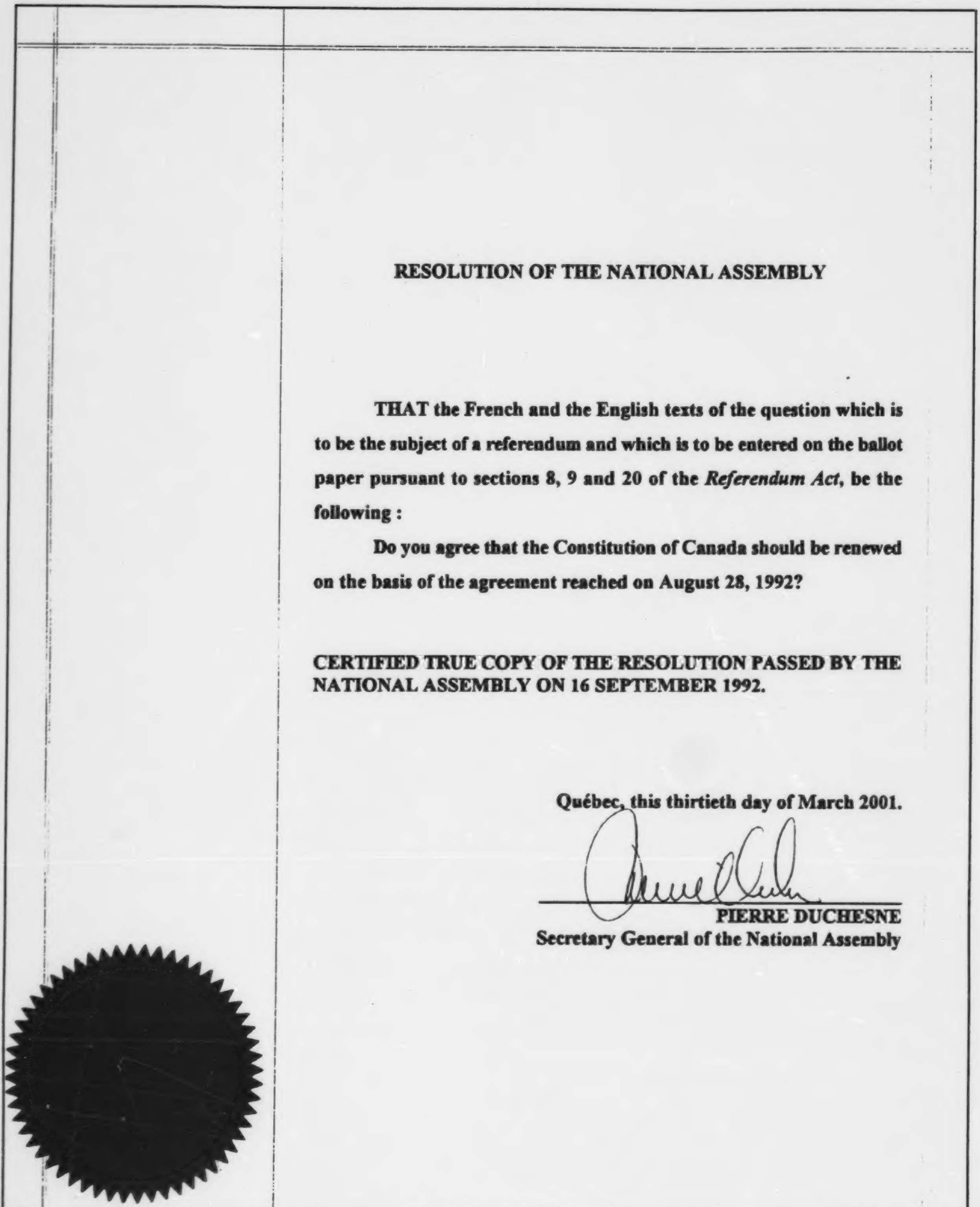
"**1.** The Gouvernement du Québec shall, not later than 26 October 1992, hold a referendum on the agreement concerning a new constitutional partnership resulting from the meetings on the constitution held in August 1992."

Coming into force

3. This Act comes into force on 8 September 1992.

DOCUMENT 29

Resolution of the Québec National Assembly on the 1992 referendum question and an extract of the Official Report of the Directeur général des élections (results).



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the French and the English texts of the question which is to be the subject of a referendum and which is to be entered on the ballot paper pursuant to sections 8, 9 and 20 of the *Referendum Act*, be the following :

Do you agree that the Constitution of Canada should be renewed on the basis of the agreement reached on August 28, 1992?

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 16 SEPTEMBER 1992.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

[Translation]

SYNOPTIC TABLE OF RESULTS FOR ALL OF QUÉBEC

The NO option*	2,236,114	56.68%	1
The YES option **	1,709,075	43.32 %	1
Total of valid ballots	3,945,189	97.82 %	2
Total of rejected ballots	87,832	2.18%	2
Total votes cast	4,033,021	82.76%	3
Total of registered electors	4,872,965		
Majority in favour of the No option	527,039	13.36%	

* The NO Committee

** The Québec YES Committee

DOCUMENT 30

Bill 1, entitled An Act respecting the future of Québec, 1995.

NATIONAL ASSEMBLY

First session **Thirty-fifth legislature**

Bill 1

An Act respecting the future of Québec

Introduction

Introduced by
Mr Jacques Parizeau
Prime Minister

Québec Official Publisher
1995

EXPLANATORY NOTES

This bill proposes that Québec become a sovereign country through the democratic process. Thus, the bill authorizes the National Assembly, within the scope of its provisions, to proclaim the sovereignty of Québec and to give effect to the Declaration of sovereignty appearing in the Preamble.

The bill provides that the proclamation of sovereignty must be preceded by a formal offer of economic and political partnership with Canada. The Government of Québec is thus bound to propose to the Government of Canada the conclusion of a treaty of economic and political partnership on the basis of the agreement of June 12, 1995 between the Parti québécois, the Bloc Québécois and the Action démocratique du Québec, which is reproduced in the schedule. In addition, an orientation and supervision committee will be established for the purposes of the negotiations relating to the partnership treaty.

The bill also provides for the drafting of a new Québec constitution by a constituent commission. The draft constitution will be tabled before the National Assembly, which is to approve the final text. It will then be submitted to a referendum to become, once it is approved, the fundamental law of Québec.

The new constitution will state that Québec is a French-speaking country and will impose upon the Government the obligation of protecting Québec culture and ensuring its development. It will include a charter of human rights and freedoms and, insofar as the territorial integrity of Québec is respected, will provide guarantees regarding the rights of the English-speaking community and the aboriginal nations.

Moreover, the new constitution will affirm the principle of decentralization; specific powers and corresponding fiscal and financial resources will be attributed by law to local and regional authorities.

The bill provides information concerning the territory of a sovereign Québec, Québec citizenship, the currency that is to have legal tender in Québec as well as Québec's participation in treaties and international organizations and alliances. The bill ensures the continuity of laws, of the payment of pensions and benefits to the citizens of Québec, of permits, licences and contracts and of the courts.

As far as federal public servants and employees domiciled in Québec are concerned, the bill indicates that the Government will ensure that they become, if they so wish, public servants or employees of the Government of Québec. The Government may, to facilitate such transfer, make agreements with any association of employees or any other person and set up a program of voluntary retirement. The bill also provides that the Government will honour any retirement or voluntary departure arrangement made with a transferred person.

The bill also contains provisions regarding the adoption of an interim constitution and the conclusion of an agreement with respect to the equitable apportionment of the assets and liabilities of the Government of Canada.

Finally, the bill fixes the length of the partnership treaty negotiations with Canada and determines how and when the National Assembly may make the proclamation allowing Québec to acquire the exclusive power to pass all its laws, levy all its taxes and conclude all its treaties, in other words to join the community of nations as a sovereign country.

Bill 1

An Act respecting the future of Québec

PREAMBLE

DECLARATION OF SOVEREIGNTY

The time has come to reap the fields of history. The time has come at last to harvest what has been sown for us by four hundred years of men and women and courage, rooted in the soil and now returned to it.

The time has come for us, tomorrow's ancestors, to make ready for our descendants harvests that are worthy of the labours of the past.

May our toil be worthy of them, may they gather us together at last.

At the dawn of the 17th century, the pioneers of what would become a nation and then a people rooted themselves in the soil of Québec. Having come from a great civilization, they were enriched by that of the First Nations, they forged new alliances, and maintained the heritage of France.

The conquest of 1760 did not break the determination of their descendants to remain faithful to a destiny unique in North America. Already in 1774, through the Quebec Act, the conqueror recognized the distinct nature of their institutions. Neither attempts at assimilation nor the Act of Union of 1840 could break their endurance.

The English community that grew up at their side, the immigrants who have joined them, all have contributed to forming this people which became in 1867 one of the two founders of the Canadian federation.

We, the men and women of this place,

Because we inhabit the territories delimited by our ancestors, from Abitibi to the Îles-de-la-Madeleine, from Ungava to the American border, because for four hundred years we have cleared, ploughed, paced, surveyed, dug, fished, built, started anew, discussed, protected, and loved this land that is cut across and watered by the St. Lawrence River;

Because the heart of this land beats in French and because that heartbeat is as meaningful as the seasons that hold sway over it, as the winds that bend it, as the men and women who shape it;

Because we have created here a way of being, of believing, of working that is unique;

Because as long ago as 1791 we established here one of the first parliamentary democracies in the world, one we have never ceased to improve;

Because the legacy of the struggles and courage of the past compels us irrevocably to take charge of our own destiny;

Because it is this land alone that represents our pride and the source of our strength, our sole opportunity to express ourselves in the entirety of our individual natures and of our collective heart;

Because this land will be all those men and women who inhabit it, who defend it and define it, and because we are all those people;

We, the people of Québec, declare that we are free to choose our future.

We know the winter in our souls. We know its blustery days, its solitude, its false eternity and its apparent deaths. We know what it is to be bitten by the winter cold.

We entered the federation on the faith of a promise of equality in a shared undertaking and of respect for our authority in certain matters that to us are vital.

But what was to follow did not live up to those early hopes. The Canadian State contravened the federative pact, by invading in a thousand ways areas in which we are autonomous, and by serving notice that our secular belief in the equality of the partners was an illusion.

We were hoodwinked in 1982 when the governments of Canada and the English-speaking provinces made changes to the Constitution, in depth and to our detriment, in defiance of the categorical opposition of our National Assembly.

Twice since then attempts were made to right that wrong. The failure of the Meech Lake Accord in 1990 confirmed a refusal to recognize even our distinct character. And in 1992 the rejection of the Charlottetown Accord by both Canadians and Quebecers confirmed the conclusion that no redress was possible.

Because we have persisted despite the haggling of which we have been the object;

Because Canada, far from taking pride in and proclaiming to the world the alliance between its two founding peoples, has instead consistently trivialized it and decreed the spurious principle of equality between the provinces;

Because starting with the Quiet Revolution we reached a decision never again to restrict ourselves to mere survival but from this time on to build upon our difference;

Because we have the deep-seated conviction that continuing within Canada would be tantamount to condemning ourselves to languish and to debasing our very identity;

Because the respect we owe ourselves must guide our deeds;

We, the people of Québec, declare it is our will to be in full possession of all the powers of a State: to vote all our laws, to levy all our taxes, to sign all our treaties and to exercise the highest power of all, conceiving, and controlling, by ourselves, our fundamental law.

For the men and women of this country who are the warp and weft of it and its erosion, for those of tomorrow whose growth we are now witnessing, to be comes before to have. And this principle lies at the very heart of our endeavour.

Our language celebrates our love, our beliefs and our dreams for this land and for this country. In order that the profound sense of belonging to a distinct people be now and for all time the very bastion of our identity, we proclaim our will to live in a French-language society.

Our culture relates our identity, it writes of us, it sings us to the world. And through varied and new contributions, our culture takes on fresh colour and amplitude. It is essential that we welcome them in such a way that never will these differences be seen as threats or as reasons for intolerance.

Together we shall celebrate the joys, together we shall suffer the sorrows that life will set upon our road. Above all we shall assume not only our successes but our failures too, for in abundance as in adversity the choices we make will have been our own.

We know what determination has gone into achieving the successes of this land. Those men and women who have forged the dynamism of Québec are eager to pass down their efforts to the determined men and women of tomorrow. Our capacity for mutual support and our appetite for new undertakings are among our greatest strengths. We commit ourselves to recognize and encourage the urge to put our hearts into our work that makes us builders.

Along with other countries of like size, we share the virtue of adapting quickly and well to the shifting challenges of work and trade. Our capacity for consensus and our spirit of invention will enable us to take a good and rightful place at the table of nations.

We intend to uphold the imaginative powers and the abilities of local and regional communities in their activities of economic, social and cultural development.

As guardians of the land, the air, the water, we shall act in such a way as to be respectful of the world to come.

We, the men and women of this new country, acknowledge our moral duties of respect, of tolerance, of solidarity towards one another.

Averse to authoritarianism and violence, honouring the will of the people, we commit ourselves to guarantee democracy and the rule of law.

Respect for the dignity of women, men, and children and the recognition of their rights and freedoms constitute the very foundation of our society. We commit ourselves to guarantee the civil and political rights of individuals, notably the right to justice, the right to equality, and the right to freedom.

To battle against misery and poverty, to support the young and the elderly, are essential features of the society we would build. The destitute among us can count upon our compassion and our sense of responsibility. With the equitable sharing of wealth as our objective, we commit ourselves to promote full employment and to guarantee social and economic rights, notably the right to education and the right to health care and other social services.

Our shared future is in the hands of all those for whom Québec is a homeland. Because we take to heart the need to reinforce established alliances and friendships, we shall safeguard the rights of the First Nations and we intend to define with them a new alliance. Likewise, the English-speaking community historically established in Québec enjoys rights that will be maintained.

Independent and hence fully present in the world, we intend to work for cooperation, humanitarian action, tolerance and peace. We shall subscribe to the Universal Declaration of Human Rights and to other international instruments for the protection of rights.

While never repudiating our values, we shall devote ourselves to forging, through treaties and agreements, mutually beneficial links with the peoples of the earth. In particular, we wish to formulate along with the people of Canada, our historic partner, new relations that will allow us to maintain our economic ties and to redefine our political exchanges. And we shall marshal a particular effort to strengthen our ties with the peoples of the United States and France and with those of other countries both in the Americas and in the Francophonie.

To accomplish this design, to maintain the fervor that fills us and impels us, for the time has now come to set in motion this country's vast endeavour;

We, the people of Québec, through our National Assembly, proclaim:

Québec is a sovereign country.

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

SELF-DETERMINATION

1. The National Assembly is authorized, within the scope of this Act, to proclaim the sovereignty of Québec.

The proclamation must be preceded by a formal offer of economic and political partnership with Canada.

SOVEREIGNTY

2. On the date fixed in the proclamation of the National Assembly, the Declaration of sovereignty appearing in the Preamble shall take effect and Québec shall become a sovereign country; it shall acquire the exclusive power to pass all its laws, levy all its taxes and conclude all its treaties.

PARTNERSHIP TREATY

3. The Government is bound to propose to the Government of Canada the conclusion of a treaty of economic and political partnership on the basis of the tripartite agreement of June 12, 1995 reproduced in the schedule.

The treaty must be approved by the National Assembly before being ratified.

4. A committee charged with the orientation and supervision of the negotiations relating to the partnership treaty, composed of independent personalities appointed by the Government in accordance with the tripartite agreement, shall be established.

5. The Government shall favour the establishment in the Outaouais region of the seat of the institutions created under the partnership treaty.

NEW CONSTITUTION

6. A draft of a new constitution shall be drawn up by a constituent commission established in accordance with the prescriptions of the National Assembly. The commission, consisting of an equal number of men and women, shall be composed of a majority of non-parliamentarians, and shall include Quebecers of various origins and from various backgrounds.

The proceedings of the commission must be organized so as to ensure the fullest possible participation of citizens in all regions of Québec, notably through the creation of regional sub-commissions, if necessary.

The commission shall table the draft constitution before the National Assembly, which shall approve the final text. The draft constitution shall be submitted to a referendum and shall, once approved, become the fundamental law of Québec.

7. The new constitution shall state that Québec is a French-speaking country and shall impose upon the Government the obligation of protecting Québec culture and ensuring its development.

8. The new constitution shall affirm the rule of law, and shall include a charter of human rights and freedoms. It shall also affirm that citizens have responsibilities towards their fellow citizens.

The new constitution shall guarantee the English-speaking community that its identity and institutions will be preserved. It shall also recognize the right of the aboriginal nations to self-government on lands over which they have full ownership and their right to participate in the development of Québec; in addition, the existing constitutional rights of the aboriginal nations shall be recognized in the constitution. Such guarantee and such recognition shall be exercised in a manner consistent with the territorial integrity of Québec.

Representatives of the English-speaking community and of each of the aboriginal nations must be invited by the constituent commission to take part in the proceedings devoted to defining their rights. Such rights shall not be modified otherwise than in accordance with a specific procedure.

9. The new constitution shall affirm the principle of decentralization. Specific powers and corresponding fiscal and financial resources shall be attributed by law to local and regional authorities.

TERRITORY

10. Québec shall retain its boundaries as they exist within the Canadian federation on the date on which Québec becomes a sovereign country. It shall exercise its jurisdiction over the land, air and water forming its territory and over the areas adjacent to its coast, in accordance with the rules of international law.

CITIZENSHIP

11. Every person who, on the date on which Québec becomes a sovereign country, holds Canadian citizenship and is domiciled in Québec acquires Québec citizenship.

Every person born in Québec who, on the date on which Québec becomes a sovereign country, is domiciled outside Québec and who claims Québec citizenship also acquires Québec citizenship.

In the two years following the date on which Québec becomes a sovereign country, any person holding Canadian citizenship who settles in Québec or who has established a substantial connection with Québec without being domiciled in Québec may claim Québec citizenship.

12. Québec citizenship may be obtained, once Québec has become a sovereign country, in the cases and on the conditions determined by law. The law must provide, in particular, that Québec citizenship shall be granted to every person born in Québec, or born outside Québec to a father or mother holding Québec citizenship.

13. Québec citizenship may be held concurrently with Canadian citizenship or that of any other country.

CURRENCY

14. The currency having legal tender in Québec shall remain the Canadian dollar.

TREATIES AND INTERNATIONAL ORGANIZATIONS AND ALLIANCES

15. In accordance with the rules of international law, Québec shall assume the obligations and enjoy the rights set forth in the relevant treaties and international conventions and agreements to which Canada or Québec is a party on the date on which Québec becomes a sovereign country, in particular in the North American Free Trade Agreement.

16. The Government is authorized to apply for the admission of Québec to the United Nations Organization and its specialized agencies. It shall take the necessary steps to ensure the participation of Québec in the World Trade Organization, the Organization of American States, the Organization for Economic Cooperation and Development, the Organization for Security and Co-operation in Europe, the Francophonie, the Commonwealth and other international organizations and conferences.

17. The Government shall take the necessary steps to ensure the continuing participation of Québec in the defence alliances of which Canada is a member. Such participation must, however, be compatible with Québec's desire to give priority to the maintenance of world peace under the leadership of the United Nations Organization.

CONTINUITY OF LAWS, PENSIONS, BENEFITS, LICENCES AND PERMITS, CONTRACTS AND COURTS OF JUSTICE

18. The Acts of the Parliament of Canada and the regulations thereunder that apply in Québec on the date on which Québec becomes a sovereign country shall be deemed to be laws and regulations of Québec. Such legislative and regulatory provisions shall be maintained in force until they are amended, replaced or repealed.

19. The Government shall ensure the continuity of the unemployment insurance and child tax benefit programs and the payment of the other benefits paid by the Government of Canada to individuals domiciled in Québec on the date on which Québec becomes a sovereign country. Pensions and supplements payable to the elderly and to veterans shall continue to be paid by the Government of Québec according to the same terms and conditions.

20. Permits, licences and other authorizations issued before October 30, 1995 under an Act of the Parliament of Canada that are in force in Québec on the date on which Québec becomes a sovereign country shall be maintained. Those issued or renewed on or after October 30, 1995 shall also be maintained unless they are denounced by the Government within one month following the date on which Québec becomes a sovereign country.

Permits, licences and other authorizations that are so maintained will be renewable according to law.

21. Agreements and contracts entered into before October 30, 1995 by the Government of Canada or its agencies or organizations that are in force in Québec on the date on which Québec becomes a sovereign country shall be maintained, with the Government of Québec substituted, where required, for the Canadian party. Those entered into on or after October 30, 1995 shall also be maintained, with the Government of Québec substituted, where required, for the Canadian party, unless they are denounced by the Government within one month following the date on which Québec becomes a sovereign country.

22. The courts of justice shall continue to exist after the date on which Québec becomes a sovereign country. Cases pending may be continued until judgment. However, the law may provide that cases pending before the Federal Court or before the Supreme Court shall be transferred to the Québec jurisdiction it determines.

The Court of Appeal shall become the court of highest jurisdiction until a Supreme Court is established under the new constitution, unless otherwise provided for by law.

Judges appointed by the Government of Canada before October 30, 1995 who are in office on the date on which Québec becomes a sovereign country shall be confirmed in their functions and shall retain their jurisdiction. The judges of the Federal Court and of the Supreme Court of Canada who were members of the Québec Bar shall become, if they so wish, judges of the Superior Court and of the Court of Appeal, respectively.

FEDERAL PUBLIC SERVANTS AND EMPLOYEES

23. The Government may, in accordance with the conditions prescribed by law, appoint the necessary personnel and take appropriate steps to facilitate the application of the Canadian laws that continue to apply in Québec pursuant to section 18. The sums required for the application of such laws shall be taken out of the consolidated revenue fund.

The Government shall ensure that the public servants and other employees of the Government of Canada and of its agencies and organizations, appointed before October 30, 1995 and domiciled in Québec on the date on which Québec becomes a sovereign country, shall become, if they so wish, public servants or employees of the Government of Québec. The Government may, for that purpose, conclude agreements with any association of employees or any other person in order to facilitate such transfers. The Government may also set up a program of voluntary retirement; it shall honour any retirement or voluntary departure arrangement made with a transferred person.

INTERIM CONSTITUTION

24. The Parliament of Québec may adopt the text of an interim constitution which will be in force from the date on which Québec becomes a sovereign country until the coming into force of the new constitution of Québec. The interim constitution must ensure the continuity of the democratic institutions of Québec and of the constitutional rights existing on the date on which Québec becomes a sovereign country, in particular those relating to human rights and freedoms, the English-speaking community, access to English-language schools, and the aboriginal nations.

Until the coming into force of the interim constitution, the laws, rules and conventions governing the internal constitution of Québec shall remain in force.

OTHER AGREEMENTS

25. In addition to the partnership treaty, the Government is authorized to conclude with the Government of Canada any other agreement to facilitate the application of this Act, in particular with respect to the equitable apportionment of the assets and liabilities of the Government of Canada.

COMING INTO FORCE

26. The negotiations relating to the conclusion of the partnership treaty must not extend beyond October 30, 1996, unless the National Assembly decides otherwise.

The proclamation of sovereignty may be made as soon as the partnership treaty has been approved by the National Assembly or as soon as the latter, after requesting the opinion of the orientation and supervision committee, has concluded that the negotiations have proved fruitless.

27. This Act comes into force on the day on which it is assented to.

SCHEDULE

TEXT OF THE AGREEMENT BETWEEN

The Parti Québécois, the Bloc Québécois
and the Action démocratique du Québec

Ratified by

Messrs. Jacques Parizeau, Lucien Bouchard and Mario Dumont

Québec City

June 12, 1995

A common project

As the representatives of the Parti Québécois, the Bloc Québécois and the Action démocratique du Québec, we have reached agreement on a common project to be submitted in the referendum, a project that responds in a modern, decisive and open way to the long quest of the people of Québec to become masters of their destiny.

We have agreed to join forces and to coordinate our efforts so that in the Fall 1995 referendum, Quebecers can vote for a real change: to achieve sovereignty for Québec and a formal proposal for a new economic and political partnership with Canada, aimed among other things at consolidating the existing economic space.

The elements of this common project will be integrated in the bill that will be tabled in the Fall and on which Quebecers will vote on referendum day.

We believe that this common project respects the wishes of a majority of Quebecers, reflects the historical aspirations of Québec, and embodies, in a concrete way, the concerns expressed before the Commissions on the future of Québec.

Thus, our common project departs from the Canadian status quo, rejected by an immense majority of Quebecers. It is true to the aspirations of Quebecers for autonomy and would allow Québec to achieve sovereignty: to levy all of its taxes, pass all of its laws, sign all of its treaties. Our project also reflects the wish of Quebecers to maintain equitable and flexible ties with our Canadian neighbours, so that we can manage our common economic space together, particularly by means of joint institutions, including institutions of a political nature. We are convinced that this proposal is in the interests of both Québec and Canada, though we cannot of course presume to know what Canadians will decide in this regard.

Finally, our project responds to the wish so often expressed in recent months that the referendum unite as many Quebecers as possible on a clear, modern and open proposal.

The referendum mandate

Following a Yes victory in the referendum, the National Assembly, on the one hand, will be empowered to proclaim the sovereignty of Québec, and the government, on the other hand, will be bound to propose to Canada a treaty on a new economic and political Partnership, so as to, among other things, consolidate the existing economic space.

The referendum question will contain these two elements.

Accession to sovereignty

Insofar as the negotiations unfold in a positive fashion, the National Assembly will declare the sovereignty of Québec after an agreement is reached on the Partnership treaty. One of the first acts of a sovereign Québec will be ratification of the Partnership treaty.

The negotiations will not exceed one year, unless the National Assembly decides otherwise.

If the negotiations prove to be fruitless, the National Assembly will be empowered to declare the sovereignty of Québec without further delay.

The treaty

The new rules and the reality of international trade will allow a sovereign Québec, even without a formal Partnership with Canada, continued access to external markets, including the Canadian economic space. Moreover, a sovereign Québec could, on its own initiative, keep the Canadian dollar as its currency.

However, given the volume of trade between Québec and Canada and the extent of their economic integration, it will be to the evident advantage of both States to sign a formal treaty of economic and political Partnership.

The treaty will be binding on the parties and will specify appropriate measures for maintaining and improving the existing economic space. It will establish rules for the division of federal assets and management of the common debt. It will create the joint political institutions required to administer the new Economic and Political Partnership, and lay down their governing rules. It will provide for the establishment of a Council, a Secretariat, an Assembly and a Tribunal for the resolution of disputes.

As a priority, the treaty will ensure that the Partnership has the authority to act in the following areas:

- customs union;
- free movement of goods;
- free movement of individuals;
- free movement of services;
- free movement of capital;
- monetary policy;
- labour mobility;
- citizenship.

In accordance with the dynamics of the joint institutions and in step with their aspirations, the two member States will be free to make agreements in any other area of common interest, such as:

— trade within the Partnership, so as to adapt and strengthen the provisions of the Agreement on Internal Trade;

— international trade (for example, to establish a common position on the exemption with respect to culture contained in the WTO Agreement and NAFTA);

— international representation (for example, the Council could decide, where useful or necessary, that the Partnership will speak with one voice within international organizations);

— transportation (to facilitate, for example, access to the airports of the two countries or to harmonize highway, rail or inland navigation policies);

— defence policy (for example, joint participation in peacekeeping operations or a coordinated participation in NATO and NORAD);

— financial institutions (for example, to define regulations for chartered banks, security rules and sound financial practices);

— fiscal and budgetary policies (to maintain a dialogue to foster the compatibility of respective actions);

— environmental protection (in order to set objectives in such areas as cross-border pollution and the transportation and storage of hazardous materials);

— the fight against arms and drug trafficking;

— postal services;

— any other matters considered of common interest to the parties.

Joint Institutions

(1) The Council

The Partnership Council, made up of an equal number of Ministers from the two States, will have decision-making power with regard to the implementation of the treaty.

The decisions of the Partnership Council will require a unanimous vote, thus each member will have a veto.

The Council will be assisted by a permanent secretariat. The Secretariat will provide operational liaison between the Council and the governments and follow up on the implementation of the Council's decisions. At the request of the Council or the Parliamentary Assembly, the Secretariat will produce reports on any matter relating to the application of the treaty.

(2) The Parliamentary Assembly

A Partnership Parliamentary Assembly, made up of Québec and Canadian Members appointed by their respective Legislative Assemblies, will be created.

It will examine the draft text of Partnership Council decisions, and forward its recommendations. It will also have the power to pass resolutions on any aspect of its implementation, particularly after receiving the periodical reports on the state of the Partnership addressed to it by the Secretariat. It will hear, in public sessions, the heads of the bipartite administrative commissions responsible for the application of specific treaty provisions.

The composition of the Assembly will reflect the population distribution within the Partnership. Québec will hold 25 % of the seats. Funding for Partnership institutions will be shared equally, except for parliamentarians' expenses, which will be borne by each State.

(3) The Tribunal

A tribunal will be set up to resolve disputes relating to the treaty, its implementation and the interpretation of its provisions. Its decisions will be binding upon the parties.

The working procedures of the Tribunal could be modeled on existing mechanisms, such as the panels set up under NAFTA, the Agreement on Internal Trade or the World Trade Organization Agreement.

The Committee

An orientation and supervision committee will be set up for the purposes of the negotiations. It will be made up of independent personalities agreed upon by the three parties (PQ, BQ, ADQ). Its composition will be made public at the appropriate time. The Committee will

(1) take part in the selection of the chief negotiator;

(2) be allowed an observer at the negotiation table;

(3) advise the government on the progress of the negotiations;

(4) inform the public on the procedures and on the outcome of the negotiations.

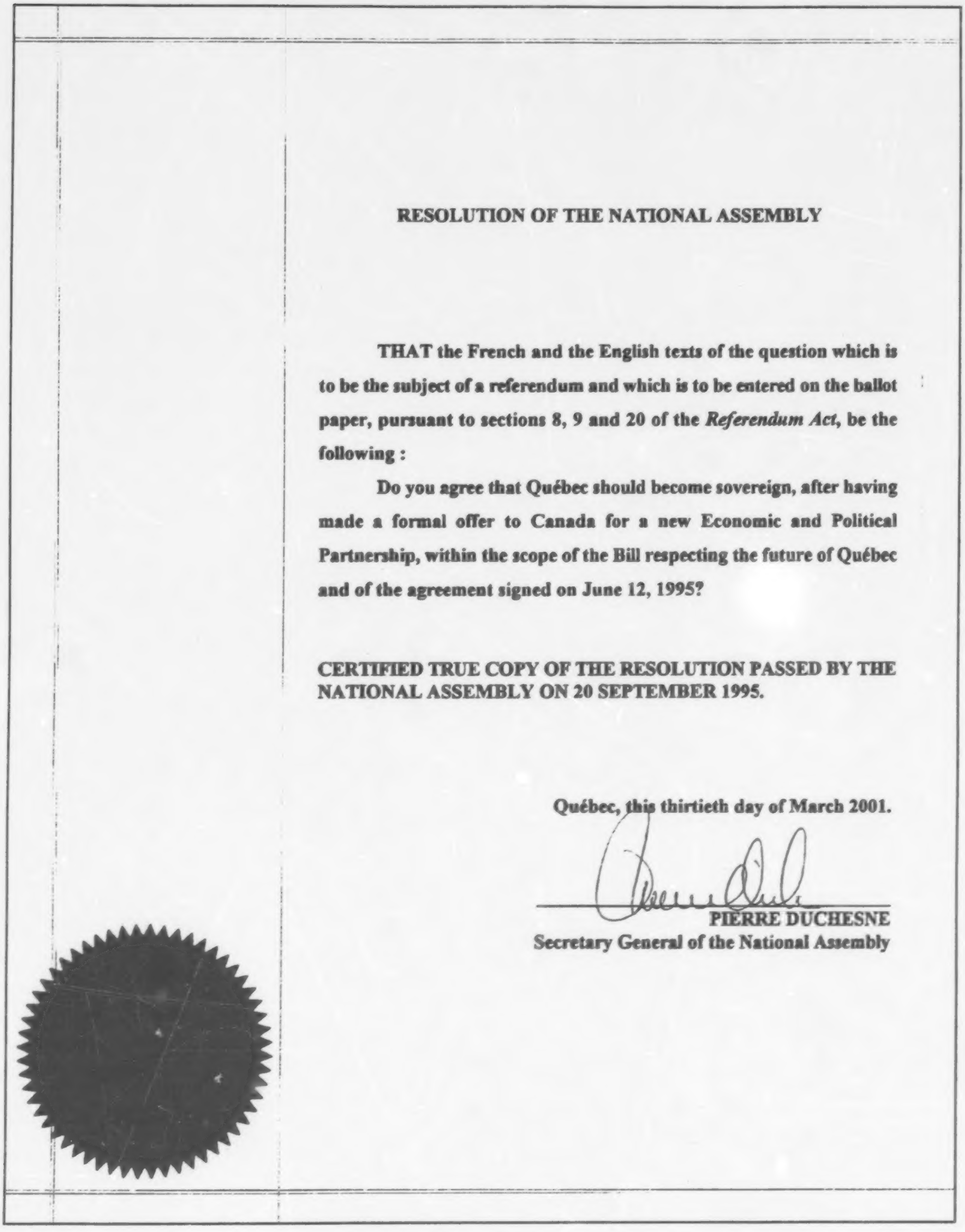
The democratically appointed authorities of our three parties, having examined and ratified the present agreement yesterday, Sunday, June 11, 1995 — the Action démocratique du Québec having met in Sherbrooke, the Bloc Québécois in Montréal, and the Parti Québécois in Québec — we hereby ratify this common project and we call upon all Quebecers to endorse it.

[TRANSLATION]

Jacques Parizeau Président du Parti québécois	Lucien Bouchard Chef du Bloc Québécois	Mario Dumont Chef de l'Action Démocratique du Québec

DOCUMENT 31

Resolution of the Québec National Assembly on the 1995 referendum question and an extract of the Official Report of the Directeur général des élections (results).



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the French and the English texts of the question which is to be the subject of a referendum and which is to be entered on the ballot paper, pursuant to sections 8, 9 and 20 of the *Referendum Act*, be the following :

Do you agree that Québec should become sovereign, after having made a formal offer to Canada for a new Economic and Political Partnership, within the scope of the Bill respecting the future of Québec and of the agreement signed on June 12, 1995?

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 20 SEPTEMBER 1995.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

[Translation]

SYNOPTIC TABLE OF RESULTS
FOR ALL OF QUÉBEC

The NO option *	2,362,648		50.58% (1)
The YES option **	2,308,360		49.42% (1)
NUMBER OF VALID BALLOTS	4,671,008		98.18% (2)
NUMBER OF REJECTED BALLOTS	86,501		1.82% (2)
VOTES CAST AND LEVEL OF PARTICIPATION	4,757,509	(3)	93.52% (4)
NUMBER OF REGISTERED ELECTORS ***	5,087,009		
MAJORITY IN FAVOUR OF THE NO OPTION	54,288		1.16%

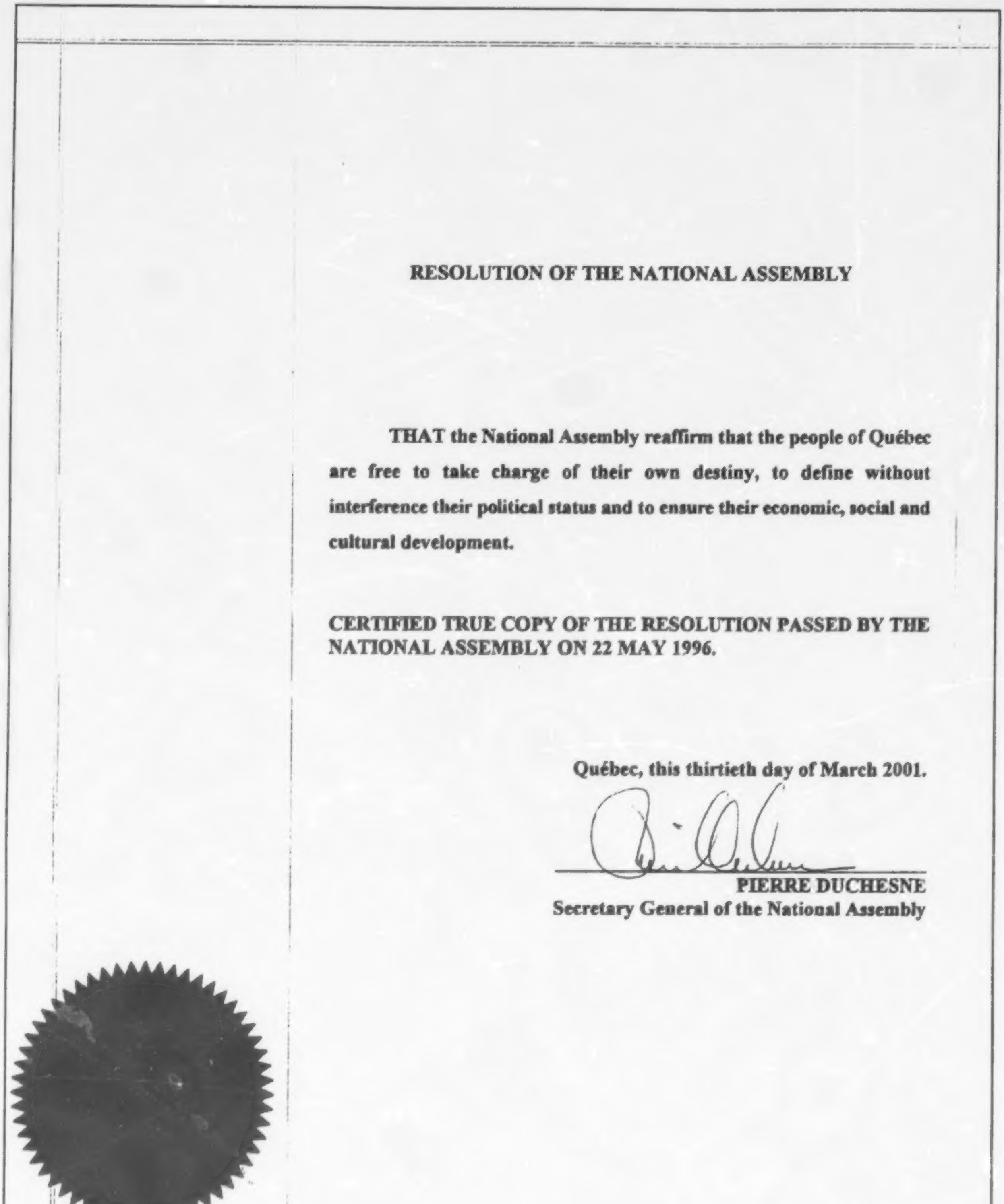
Comité des Québécoises et des Québécois pour le NON / Committee of Quebecers for the NO
President Mr. Daniel Johnson

Le Comité national du OUI / The YES National Committee
President Mr. Jacques Parizeau

The number of registered electors includes persons registered in the registry of electors outside Québec and persons registered on the list of inmate electors.

DOCUMENT 32

Resolution of the Québec National Assembly on the right of Quebecers to define their political status, May 1996.



RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the National Assembly reaffirm that the people of Québec are free to take charge of their own destiny, to define without interference their political status and to ensure their economic, social and cultural development.

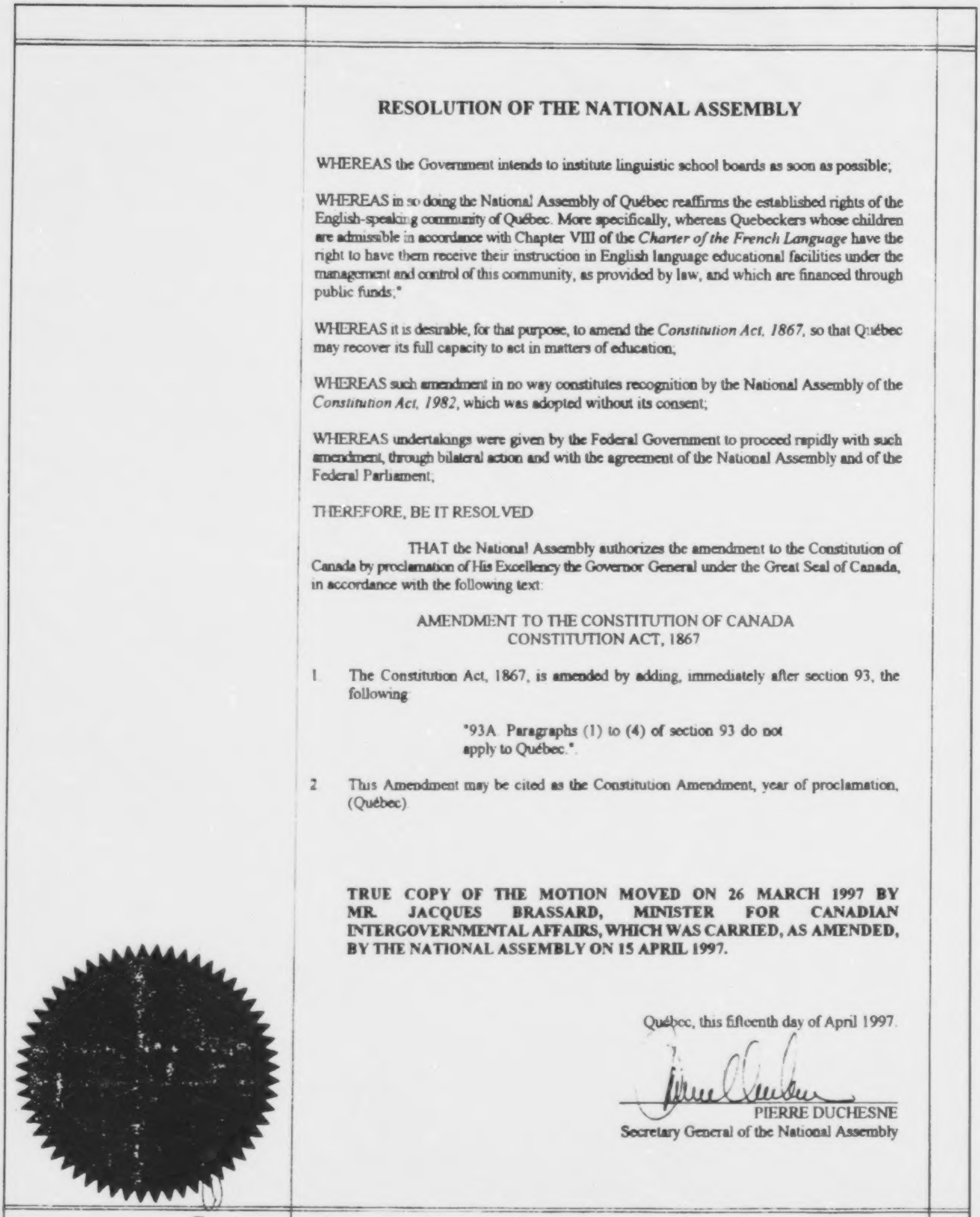
CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 22 MAY 1996.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 33

Resolution of the Québec National Assembly authorizing the amendment of section 93 of the Constitution Act, 1867, April 15, 1997.



RESOLUTION OF THE NATIONAL ASSEMBLY

WHEREAS the Government intends to institute linguistic school boards as soon as possible;

WHEREAS in so doing the National Assembly of Québec reaffirms the established rights of the English-speaking community of Québec. More specifically, whereas Quebeckers whose children are admissible in accordance with Chapter VIII of the *Charter of the French Language* have the right to have them receive their instruction in English language educational facilities under the management and control of this community, as provided by law, and which are financed through public funds;"

WHEREAS it is desirable, for that purpose, to amend the *Constitution Act, 1867*, so that Québec may recover its full capacity to act in matters of education;

WHEREAS such amendment in no way constitutes recognition by the National Assembly of the *Constitution Act, 1982*, which was adopted without its consent;

WHEREAS undertakings were given by the Federal Government to proceed rapidly with such amendment, through bilateral action and with the agreement of the National Assembly and of the Federal Parliament;

THEREFORE, BE IT RESOLVED

THAT the National Assembly authorizes the amendment to the Constitution of Canada by proclamation of His Excellency the Governor General under the Great Seal of Canada, in accordance with the following text:

AMENDMENT TO THE CONSTITUTION OF CANADA
CONSTITUTION ACT, 1867

1. The Constitution Act, 1867, is amended by adding, immediately after section 93, the following:

   "93A. Paragraphs (1) to (4) of section 93 do not apply to Québec.".

2. This Amendment may be cited as the Constitution Amendment, year of proclamation, (Québec).

TRUE COPY OF THE MOTION MOVED ON 26 MARCH 1997 BY MR. JACQUES BRASSARD, MINISTER FOR CANADIAN INTERGOVERNMENTAL AFFAIRS, WHICH WAS CARRIED, AS AMENDED, BY THE NATIONAL ASSEMBLY ON 15 APRIL 1997.

Québec, this fifteenth day of April 1997.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 34

Decision by the Conseil des ministres no. 97-092 on the fifteenth anniversary of the coming into force of the Constitution Act, 1982, April 16, 1997.

[Translation]

Meeting of the Conseil des ministres Decision No.: 97-092

Subject: The fifteenth anniversary of the coming into force of the Constitution Act, 1982 Date: April 16, 1997

WHEREAS the Constitution Act, 1982 came into force on April 17, 1982;

WHEREAS this act was adopted without the consent of the Québec National Assembly;

WHEREAS this act has diminished the powers and rights of Québec and its National Assembly;

WHEREAS this act does not recognize Québec's right to veto in matters involving a constitutional amendment, nor a right of opting out with reasonable and obligatory compensation;

WHEREAS this act has unilaterally violated the pact of 1867 entered into by the two founding peoples and it does not recognized the implications issuing from the existence of the Québec people;

WHEREAS in 1990, the Meech Lake Accord reached in 1987 for purposes of reintegrating Québec into the Canadian Constitution became null and void;

WHEREAS because of the preceding, the multilateral process for amending the constitution provided under the Constitution Act, 1982 has been discredited;

WHEREAS another attempt at constitutional reform failed in 1992 by the rejection of the Charlottetown Agreement by the referendums then held respectively in Québec and elsewhere in Canada;

WHEREAS under section 49 of the Constitution Act, 1982 the Prime Minister of Canada must convene within fifteen years following the coming into force of this act, a constitutional conference uniting the provincial first ministers and himself for purposes of reexamining the constitutional amendment formula;

WHEREAS the Prime Minister of Canada considers that this obligation was satisfied at the federal provincial conference of first ministers held in Ottawa on July 20 and 21, 1996;

Page 1 of 2

97-092

WHEREAS the government of Québec has at no time whatsoever adhered to the Constitution Act, 1982;

WHEREAS it happens that the renewal of Canadian federalism in the direction of Québec's aspirations does not appear to be possible any longer;

WHEREAS the people of Québec, by expressing themselves in 1980 and 1995 on the issue of sovereignty, democratically exercised their right to independently determine their political status;

The Conseil des ministres has decided;

1- to reiterate that the Constitution Act, 1982 is unacceptable for Québec;

2- to reiterate that the Québec people are free and capable of assuming their destiny and development and that it is up to them alone to democratically determine their political status.

MICHEL CARPENTIER

General Secretary of the
Conseil exécutif

DOCUMENT 35

Resolution of the Québec National Assembly dated May 21, 1997 on the October 30, 1995 referendum and the Referendum Act.

RESOLUTION OF THE NATIONAL ASSEMBLY

THAT the National Assembly demand that the men and women politicians of Québec recognize the will, democratically expressed by Quebeckers in the referendum of 30 October 1995 held in compliance with the *Referendum Act*, thus acknowledging the fundamental right of Quebeckers to determine their future pursuant to this Act.

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE NATIONAL ASSEMBLY ON 21 MAY 1997.

Québec, this thirtieth day of March 2001.

PIERRE DUCHESNE
Secretary General of the National Assembly

DOCUMENT 36

The Calgary Declaration (declaration of the provinces and territories except Québec), September 14, 1997.

NEWS RELEASE

Ref: 850-065/04

Premiers' Meeting
Calgary, Alberta - September 14, 1997

PREMIERS AGREE TO CONSULT CANADIANS ON UNITY

CALGARY, September 14, 1997 -- Nine Premiers and two territorial leaders have unanimously agreed on a framework for open and grassroots public consultations with Canadians on strengthening the Canadian federation.

Premiers and territorial leaders considered both the subject matter and the process of public consultation on national unity. The attached framework of subjects for consultation is not intended to be exhaustive. Each province and territory will determine the scope of consultation and the most appropriate mechanisms.

Premiers and territorial leaders also reached an agreement on guidelines (attached) and on a timeframe for public consultation. All Premiers and leaders undertook to initiate consultations this fall. They will report progress prior to their January Team Canada trade mission.

Premiers and territorial leaders also reiterated that the federation also needs practical non-constitutional approaches to reform, strengthen and improve its effectiveness. In August, Premiers and territorial leaders released a statement on Social Policy Renewal that sets out approaches to work cooperatively with the federal government in the areas of health care and social programs. Today, Premiers, territorial leaders and the Prime Minister agreed to meet this fall to discuss social policy renewal and to work cooperatively in the areas of health care and youth unemployment.

Premiers and territorial leaders remain committed to meeting with Aboriginal Leaders to follow up on the recent Annual Premiers' Conference held in St. Andrews. This meeting has been tentatively scheduled for Winnipeg, Manitoba on November 18, 1997.

- 30 -

Contact:

Maurice Robichaud
Director of Communications
Premier's Office, Government of New Brunswick
(506) 453-2144
or (506) 451-5695

FRAMEWORK FOR DISCUSSION ON CANADIAN UNITY

1. All Canadians are equal and have rights protected by law.

2. All provinces, while diverse in their characteristics, have equality of status.

3. Canada is graced by a diversity, tolerance, compassion and an equality of opportunity that is without rival in the world.

4. Canada's gift of diversity includes Aboriginal peoples and cultures, the vitality of the English and French languages and a multicultural citizenry drawn from all parts of the world.

5. In Canada's federal system, where respect for diversity and equality underlies unity, the unique character of Quebec society, including its French speaking majority, its culture and its tradition of

civil law, is fundamental to the well being of Canada. Consequently, the legislature and Government of Quebec have a role to protect and develop the unique character of Quebec society within Canada.

6. If any future constitutional amendment confers powers on one province, these powers must be available to all provinces.

7. Canada is a federal system where federal, provincial, and territorial governments work in partnership while respecting each other's jurisdictions. Canadians want their governments to work cooperatively and with flexibility to ensure the efficiency and effectiveness of the federation. Canadians want their governments to work together particularly in the delivery of their social programs. Provinces and territories renew their commitment to work in partnership with the Government of Canada to best serve the needs of Canadians.

GUIDELINES FOR THE PROCESS OF PUBLIC CONSULTATION

1. Will be open to the general citizenry.

2. Efforts should be made to find creative ways of engaging Canadians in each provincial consultation process.

3. Governments should act as catalyst for the process of consultation.

4. It is acknowledged that provinces and territories may wish to have processes of consultation in stages but the advantage of a coordinated time frame is recognized.

5. Each province and territory is free to decide on the range or scope of consultation as well as the most appropriate mechanism for consultation.

DOCUMENT 37

Guidelines from the government of Québec regarding Canadian intergovernmental relations, December 4, 1997.

[Translation]

Guidelines from the government of Québec regarding Canadian intergovernmental relations

1. The government shall reiterate in all circumstances the basis and the legitimacy of the Québec people's right to freely dispose of their political future, a right that is exercised on the basis of an eminently democratic process as illustrated in the precedents of 1980 and 1995.

2. It shall take requisite measures for defending the democratic institutions of Québec through which this right is exercised.

3. It shall watch over the maintenance and respect of Québec's territorial integrity.

4. Québec shall demand respect for its constitutional jurisdictions and shall lay claim to the fullest exercising of them.

   - it shall continue to denounce encroachments by the federal government and

   - it shall demand full financial compensation in the form of tax points, especially within the framework of any new federal agreement or initiative in a sector coming under Québec's jurisdiction.

5. In the case of federal disengagement from other sectors, it shall demand, as the case may be, that the transferring of jurisdictions to Québec be accompanied with fair compensation.

6. It shall present in any matter where Québec deems it has been treated unfairly a financial claim to obtain from the federal government equitable compensation or reparation.

7. It shall participate in federal-provincial conferences, with the exception of any constitutional conference, to ensure the defence of Québec's social, cultural, economic and financial interests on the basis of the following parameters:

   - ensuring respect for its jurisdictions and its responsibilities on the basis of its historic claims;

   - obtaining its fair share of federal expenditures financed, for nearly one quarter, by Québec's taxes and duties.

8. The government of Québec shall actively participate in intergovernmental discussions on issues involving the revision of financial arrangements within the federation. Within the framework of these discussions, the government's objective shall not only be to preserve, but also to increase Québec's fiscal autonomy.

9. The government intends to work towards the reinforcement of the Québec-Canada economic space by pursuing efforts for implementing the Agreement on Internal Trade (AIT) while privileging the making of bilateral economic agreements such as those entered into with Ontario and New Brunswick.

10. The government intends to continue issuing messages that illustrate the realities of Québec in order to correct the often negative and unfounded perceptions of Québec in English Canada. This means, among other things, making reminders of the democratic and responsible nature of the government's actions regarding its collective project.

DOCUMENT 38

The Social Union Framework Agreement, February 4, 1999, that Québec did not sign.

A Framework to Improve the Social Union for Canadians

An agreement between
the Government of Canada
and the Governments
of the Provinces and Territories

February 4, 1999

The following agreement is based upon a mutual respect between orders of government and a willingness to work more closely together to meet the needs of Canadians.

1. Principles

Canada's social union should reflect and give expression to the fundamental values of Canadians—equality, respect for diversity, fairness, individual dignity and responsibility, and mutual aid and our responsibilities for one another.

Within their respective constitutional jurisdictions and powers, governments commit to the following principles:

All Canadians are equal

- Treat all Canadians with fairness and equity
- Promote equality of opportunity for all Canadians
- Respect the equality, rights and dignity of all Canadian women and men and their diverse needs

Meeting the needs of Canadians

- Ensure access for all Canadians, wherever they live or move in Canada, to essential social programs and services of reasonably comparable quality
- Provide appropriate assistance to those in need
- Respect the principles of medicare: comprehensiveness, universality, portability, public administration and accessibility
- Promote the full and active participation of all Canadians in Canada's social and economic life
- Work in partnership with individuals, families, communities, voluntary organizations, business and labour, and ensure appropriate opportunities for Canadians to have meaningful input into social policies and programs

Sustaining social programs and services

- Ensure adequate, affordable, stable and sustainable funding for social programs

Aboriginal peoples of Canada

For greater certainty, nothing in this agreement abrogates or derogates from any Aboriginal, treaty or other rights of Aboriginal peoples including self-government

2. Mobility within Canada

All governments believe that the freedom of movement of Canadians to pursue opportunities anywhere in Canada is an essential element of Canadian citizenship.

Governments will ensure that no new barriers to mobility are created in new social policy initiatives.

Governments will eliminate, within three years, any residency-based policies or practices which constrain access to post-secondary education, training, health and social services and social assistance unless they can be demonstrated to be reasonable and consistent with the principles of the Social Union Framework.

Accordingly, sector Ministers will submit annual reports to the Ministerial Council identifying residency-based barriers to access and providing action plans to eliminate them.

Governments are also committed to ensure, by July 1, 2001, full compliance with the mobility provisions of the *Agreement on Internal Trade* by all entities subject to those provisions, including the requirements for mutual recognition of occupational qualifications and for eliminating residency requirements for access to employment opportunities.

2. Informing Canadians—Public Accountability and Transparency

Canada's Social Union can be strengthened by enhancing each government's transparency and accountability to its constituents. Each government therefore agrees to:

Achieving and Measuring Results

- Monitor and measure outcomes of its social programs and report regularly to its constituents on the performance of these programs
- Share information and best practices to support the development of outcome measures, and work with other governments to develop, over time, comparable indicators to measure progress on agreed objectives
- Publicly recognize and explain the respective roles and contributions of governments
- Use funds transferred from another order of government for the purposes agreed and pass on increases to its residents
- Use third parties, as appropriate, to assist in assessing progress on social priorities

Involvement of Canadians

- Ensure effective mechanisms for Canadians to participate in developing social priorities and reviewing outcomes

Ensuring fair and transparent practices

- Make eligibility criteria and service commitments for social programs publicly available
- Have in place appropriate mechanisms for citizens to appeal unfair administrative practices and bring complaints about access and service
- Report publicly on citizen's appeals and complaints, ensuring that confidentiality requirements are met

4. Working in partnership for Canadians

Joint Planning and Collaboration

The Ministerial Council has demonstrated the benefits of joint planning and mutual help through which governments share knowledge and learn from each other.

Governments therefore agree to

- Undertake joint planning to share information on social trends, problems and priorities and to work together to identify priorities for collaborative action

- Collaborate on implementation of joint priorities when this would result in more effective and efficient service to Canadians, including as appropriate joint development of objectives and principles, clarification of roles and responsibilities, and flexible implementation to respect diverse needs and circumstances, complement existing measures and avoid duplication

Reciprocal Notice and Consultation

The actions of one government or order of government often have significant effects on other governments. In a manner consistent with the principles of our system of parliamentary government and the budget-making process, governments therefore agree to:

- Give one another advance notice prior to implementation of a major change in a social policy or program which will likely substantially affect another government

- Offer to consult prior to implementing new social policies and programs that are likely to substantially affect other governments or the social union more generally. Governments participating in these consultations will have the opportunity to identify potential duplication and to propose alternative approaches to achieve flexible and effective implementation

Equitable Treatment

For any new Canada-wide social initiatives, arrangements made with one province/territory will be made available to all provinces/territories in a manner consistent with their diverse circumstances.

Aboriginal Peoples

Governments will work with the Aboriginal peoples of Canada to find practical solutions to address their pressing needs.

5. The federal spending power—Improving social programs for Canadians

Social transfers to provinces and territories

The use of the federal spending power under the Constitution has been essential to the development of Canada's social union. An important use of the spending power by the Government of Canada has been to transfer money to the provincial and territorial governments. These transfers support the delivery of social programs and services by provinces and territories in order to promote equality of opportunity and mobility for all Canadians and to pursue Canada-wide objectives.

Conditional social transfers have enabled governments to introduce new and innovative social programs, such as Medicare, and to ensure that they are available to all Canadians. When the federal government uses such conditional transfers, whether cost-shared or block-funded, it should proceed in a cooperative manner that is respectful of the provincial and territorial governments and their priorities.

Funding predictability

The Government of Canada will consult with provincial and territorial governments at least one year prior to renewal or significant funding changes in existing social transfers to provinces/territories, unless otherwise agreed, and will build due notice provisions into any new social transfers to provincial/territorial governments.

New Canada-wide Initiatives supported by transfers to Provinces and Territories

With respect to any new Canada-wide initiatives in health care, post-secondary education, social assistance and social services that are funded through intergovernmental transfers, whether block-funded or cost-shared, the Government of Canada will:

- Work collaboratively with all provincial and territorial governments to identify Canada-wide priorities and objectives
- Not introduce such new initiatives without the agreement of a majority of provincial governments

Each provincial and territorial government will determine the detailed program design and mix best suited to its own needs and circumstances to meet the agreed objectives.

A provincial/territorial government which, because of its existing programming, does not require the total transfer to fulfill the agreed objectives would be able to reinvest any funds not required for those objectives in the same or a related priority area.

The Government of Canada and the provincial/territorial governments will agree on an accountability framework for such new social initiatives and investments.

All provincial and territorial governments that meet or commit to meet the agreed Canada-wide objectives and agree to respect the accountability framework will receive their share of available funding.

Direct federal spending

Another use of the federal spending power is making transfers to individuals and to organizations in order to promote equality of opportunity, mobility, and other Canada-wide objectives.

When the federal government introduces new Canada-wide initiatives funded through direct transfers to individuals or organizations for health care, post-secondary education, social assistance and social services, it will, prior to implementation, give at least three months' notice and offer to consult. Governments participating in these consultations will have the opportunity to identify potential duplication and to propose alternative approaches to achieve flexible and effective implementation.

6. Dispute Avoidance and Resolution

Governments are committed to working collaboratively to avoid and resolve intergovernmental disputes. Respecting existing legislative provisions, mechanisms to avoid and resolve disputes should:

- Be simple, timely, efficient, effective and transparent
- Allow maximum flexibility for governments to resolve disputes in a non-adversarial way
- Ensure that sectors design processes appropriate to their needs
- Provide for appropriate use of third parties for expert assistance and advice while ensuring democratic accountability by elected officials

Dispute avoidance and resolution will apply to commitments on mobility, intergovernmental transfers, interpretation of the *Canada Health Act* principles, and, as appropriate, on any new joint initiative.

Sector Ministers should be guided by the following process, as appropriate:

Dispute avoidance

- Governments are committed to working together and avoiding disputes through information-sharing, joint planning, collaboration, advance notice and early consultation, and flexibility in implementation

Sector negotiations

- Sector negotiations to resolve disputes will be based on joint fact-finding
- A written joint fact-finding report will be submitted to governments involved, who will have the opportunity to comment on the report before its completion

- Governments involved may seek assistance of a third party for fact-finding, advice, or mediation

- At the request of either party in a dispute, fact-finding or mediation reports will be made public

Review provisions

- Any government can require a review of a decision or action one year after it enters into effect or when changing circumstances justify

Each government involved in a dispute may consult and seek advice from third parties, including interested or knowledgeable persons or groups, at all stages of the process.

Governments will report publicly on an annual basis on the nature of intergovernmental disputes and their resolution.

Role of the Ministerial Council

The Ministerial Council will support sector Ministers by collecting information on effective ways of implementing the agreement and avoiding disputes and receiving reports from jurisdictions on progress on commitments under the Social Union Framework Agreement.

7. Review of the Social Union Framework Agreement

By the end of the third year of the Framework Agreement, governments will jointly undertake a full review of the Agreement and its implementation and make appropriate adjustments to the Framework as required. This review will ensure significant opportunities for input and feed-back from Canadians and all interested parties, including social policy experts, private sector and voluntary organizations.

Signed at Ottawa,
February 4, 1999

Fait à Ottawa
Le 4 février 1999

Jean Chrétien
Canada

Mike Harris
Ontario

Québec

Nova Scotia
Nouvelle-Écosse

New Brunswick
Nouveau-Brunswick

Gary Filmon
Manitoba

Glen Clark
British Columbia
Colombie-Britannique

Prince Edward Island
Île-du-Prince-Édouard

Roy Romanow
Saskatchewan

Alberta

Newfoundland and Labrador
Terre-Neuve et Labrador

Northwest Territories
Territoires du Nord Ouest

Yukon

DOCUMENT 39

Declaration of the Gouvernement du Québec respecting Québec's participation in international forums dealing with education, language, culture and identity, March 24, 1999.

DECLARATION OF THE GOUVERNEMENT DU QUÉBEC RESPECTING QUÉBEC'S PARTICIPATION IN INTERNATIONAL FORUMS DEALING WITH EDUCATION, LANGUAGE, CULTURE AND IDENTITY

WHEREAS the process of world economic integration now underway threatens cultural diversity which is unquestionably an invaluable heritage;

WHEREAS the Québec people have a vital interest in the promotion and affirmation of cultural identity;

WHEREAS in defence of this diversity, it is necessary to broaden the coalition of peoples, governments and States that support the struggle to include in international agreements clauses and concepts respecting not only the defence of cultural diversity, but also its promotion;

WHEREAS in these matters, international forums will have a direct impact on the decision-making power of States, on the protection of national cultures and, consequently, on the capacity of the National Assembly and the Gouvernement du Québec to act, as well as on the future of the Québec identity;

WHEREAS Québec is the only territory in the Americas whose official and common language is French and whereas the National Assembly and the Gouvernement du Québec are the only francophone democratic institutions in the Americas;

WHEREAS in its 1995 statement *Canada in the World*, making culture one of the three pillars of its international action, the Government of Canada ignored the existence of Québec culture and whereas federal ministers describe it as a simple "regional component" of a single Canadian culture;

WHEREAS above and beyond its jurisdictions in matters of education, language, culture and identity, the Gouvernement du Québec is the sole interlocutor competent to directly and appropriately represent the reality and interests of the Québec people;

WHEREAS Québec has an interest in increasing its relations, in both bilateral and multilateral frameworks, with States, governments, and representatives of sovereign and non-sovereign nations in order to promote cultural diversity and to make its constructive and original contribution to the international dialogue of cultures and the emergence of a coalition favouring the affirmation of this diversity;

WHEREAS within the authorities of la Francophonie, the Niamey treaty of 1970 and the agreement of 1985 establishing Québec's participation in the Sommets de la Francophonie recognized Québec's specific presence and freedom of speech and whereas Québec has contributed actively and positively to the actions of la Francophonie, notably in favour of cultural diversity;

WHEREAS in the case of international forums where Canada is the accredited State and these subjects are dealt with, and in order to avoid any controversy, the Gouvernement du Québec wishes to reach lasting agreement with the

Canadian Government on the terms and conditions of its presence and the exercise of its freedom of speech;

THE GOUVERNEMENT DU QUÉBEC DECLARES:

THAT in all international forums dealing with education, language, culture and identity, it is fundamental that the Gouvernement du Quebec speak in its own voice on behalf of the Québec people;

THAT the Gouvernement du Quebec therefore intends to participate directly in these forums, to encourage the holding of them and to favour their organization and action;

THAT for the purposes of participating in certain international organizations to which Canada is the statutorily accredited State, the Gouvernement du Québec intends to initiate negotiations with the federal government in order to reach agreement on the terms and conditions of its presence and the excercise of its freedom of speech.

Québec, March 24, 1999

DOCUMENT 40

An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (Assented to December 13, 2000).

NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 99

(2000, chapter 46)

An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State

Introduced 15 December 1999
Reprint tabled 19 April 2000
Passage in principle 30 May 2000
Passage 7 December 2000
Assented to 13 December 2000

Québec Official Publisher
2000

EXPLANATORY NOTES

This bill reaffirms the fundamental rights and prerogatives of the Québec people and the Québec State.

The bill specifies, in particular, that the Québec people has an inalienable right to freely decide the political regime and legal status of Québec, and that the Québec people, acting through its own political institutions, shall determine alone the mode of exercise of that right.

In addition, the bill establishes that no other parliament or government may reduce the powers, authority, sovereignty or legitimacy of the National Assembly, or impose constraint on the democratic will of the Québec people to determine its own future.

The bill also states the characteristics and the jurisdiction of the Québec State in various areas.

Bill 99

AN ACT RESPECTING THE EXERCISE OF THE FUNDAMENTAL RIGHTS AND PREROGATIVES OF THE QUÉBEC PEOPLE AND THE QUÉBEC STATE

WHEREAS the Québec people, in the majority French-speaking, possesses specific characteristics and a deep-rooted historical continuity in a territory over which it exercises its rights through a modern national state, having a government, a national assembly and impartial and independent courts of justice ;

WHEREAS the constitutional foundation of the Québec State has been enriched over the years by the passage of fundamental laws and the creation of democratic institutions specific to Québec ;

WHEREAS Québec entered the Canadian federation in 1867 ;

WHEREAS Québec is firmly committed to respecting human rights and freedoms ;

WHEREAS the Abenaki, Algonquin, Attikamek, Cree, Huron, Innu, Malecite, Micmac, Mohawk, Naskapi and Inuit Nations exist within Québec, and whereas the principles associated with that recognition were set out in the resolution adopted by the National Assembly on 20 March 1985, in particular their right to autonomy within Québec ;

WHEREAS there exists a Québec English-speaking community that enjoys long-established rights ;

WHEREAS Québec recognizes the contribution made by Quebecers of all origins to its development ;

WHEREAS the National Assembly is composed of Members elected by universal suffrage by the Québec people and derives its legitimacy from the Québec people in that it is the only legislative body exclusively representing the Québec people ;

WHEREAS it is incumbent upon the National Assembly, as the guardian of the historical and inalienable rights and powers of the Québec people, to defend the Québec people against any attempt to despoil it of those rights or powers or to undermine them ;

WHEREAS the National Assembly has never adhered to the Constitution Act, 1982, which was enacted despite its opposition;

WHEREAS Québec is facing a policy of the federal government designed to call into question the legitimacy, integrity and efficient operation of its national democratic institutions, notably by the passage and proclamation of the Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference (Statutes of Canada, 2000, chapter 26);

WHEREAS it is necessary to reaffirm the fundamental principle that the Québec people is free to take charge of its own destiny, determine its political status and pursue its economic, social and cultural development;

WHEREAS this principle has applied on several occasions in the past, notably in the referendums held in 1980, 1992 and 1995;

WHEREAS the Supreme Court of Canada rendered an advisory opinion on 20 August 1998, and considering the recognition by the Government of Québec of its political importance;

WHEREAS it is necessary to reaffirm the collective attainments of the Québec people, the responsibilities of the Québec State and the rights and prerogatives of the National Assembly with respect to all matters affecting the future of the Québec people;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

THE QUÉBEC PEOPLE

1. The right of the Québec people to self-determination is founded in fact and in law. The Québec people is the holder of rights that are universally recognized under the principle of equal rights and self-determination of peoples.

2. The Québec people has the inalienable right to freely decide the political regime and legal status of Québec.

3. The Québec people, acting through its own political institutions, shall determine alone the mode of exercise of its right to choose the political regime and legal status of Québec.

No condition or mode of exercise of that right, in particular the consultation of the Québec people by way of a referendum, shall have effect unless determined in accordance with the first paragraph.

4. When the Québec people is consulted by way of a referendum under the Referendum Act, the winning option is the option that obtains a majority of the valid votes cast, namely fifty percent of the valid votes cast plus one.

CHAPTER II

THE QUÉBEC NATIONAL STATE

5. The Québec State derives its legitimacy from the will of the people inhabiting its territory.

The will of the people is expressed through the election of Members to the National Assembly by universal suffrage, by secret ballot under the one person, one vote system pursuant to the Election Act, and through referendums held pursuant to the Referendum Act.

Qualification as an elector is governed by the provisions of the Election Act.

6. The Québec State is sovereign in the areas assigned to its jurisdiction within the scope of constitutional laws and conventions.

The Québec State also holds, on behalf of the Québec people, any right established to its advantage pursuant to a constitutional convention or obligation.

It is the duty of the Government to uphold the exercise and defend the integrity of those prerogatives, at all times and in all places, including on the international scene.

7. The Québec State is free to consent to be bound by any treaty, convention or international agreement in matters under its constitutional jurisdiction.

No treaty, convention or agreement in the areas under its jurisdiction may be binding on the Québec State unless the consent of the Québec State to be bound has been formally expressed by the National Assembly or the Government, subject to the applicable legislative provisions.

The Québec State may, in the areas under its jurisdiction, establish and maintain relations with foreign States and international organizations and ensure its representation outside Québec.

8. The French language is the official language of Québec.

The duties and obligations relating to or arising from the status of the French language are established by the Charter of the French language.

The Québec State must promote the quality and influence of the French language. It shall pursue those objectives in a spirit of fairness and open-mindedness, respectful of the long-established rights of Québec's English-speaking community.

CHAPTER III

THE TERRITORY OF QUÉBEC

9. The territory of Québec and its boundaries cannot be altered except with the consent of the National Assembly.

The Government must ensure that the territorial integrity of Québec is maintained and respected.

10. The Québec State exercises, throughout the territory of Québec and on behalf of the Québec people, all the powers relating to its jurisdiction and to the Québec public domain.

The State may develop and administer the territory of Québec and, more specifically, delegate authority to administer the territory to local or regional mandated entities, as provided by law. The State shall encourage local and regional communities to take responsibility for their development.

CHAPTER IV

THE ABORIGINAL NATIONS OF QUÉBEC

11. In exercising its constitutional jurisdiction, the Québec State recognizes the existing aboriginal and treaty rights of the aboriginal nations of Québec.

12. The Government undertakes to promote the establishment and maintenance of harmonious relations with the aboriginal nations, and to foster their development and an improvement in their economic, social and cultural conditions.

CHAPTER V

FINAL PROVISIONS

13. No other parliament or government may reduce the powers, authority, sovereignty or legitimacy of the National Assembly, or impose constraint on the democratic will of the Québec people to determine its own future.

14. The provisions of this Act come into force on the dates to be fixed by the Government.

TIMETABLE

1864	Charlottetown and Québec Conferences for a project to unite the British colonies of North America.
1867	Birth of the Canadian federation. The federation then had four provinces: Québec, Ontario, Nova Scotia and New Brunswick.
1870	The federal Parliament creates the Northwest Territories.
	Manitoba becomes the fifth Canadian province.
1871	British Columbia enters the Canadian federation.
1873	Prince Edward Island enters the Canadian federation.
1875	Creation of the Supreme Court of Canada by the federal Parliament.
1898	Creation of the Yukon Territory by the federal Parliament.
1905	Alberta and Saskatchewan becomes the eighth and the ninth Canadian provinces.
1914-1918	The First World War.
1926	The Balfour Declaration on the status of the Dominions of the British Empire.
1931	Statute of Westminster: confirmation of Canada's accession to independence. The amendment of the Canadian Constitution continues, however, to require an intervention by the British Parliament.
1939-1945	The Second World War.
1940	Report of the Royal Commission on Dominion-Provincial Relations (Rowell-Sirois Commission, federal).
	Unemployment insurance becomes a federal power.
1948	The Fleur-de-lys flag officially becomes the flag of Québec.
1949	Entry of Newfoundland into the Canadian federation.
	Abolition of appeals to the Judicial Committee of the Privy Council in London.
1951	Constitutional amendment regarding old-age pensions.
1954	Québec income tax.
1956	Report of the Royal Commission of Inquiry on Constitutional Problems (Tremblay Commission, Québec).
1964	Constitutional amendment regarding old-age pensions and additional benefits.
1965	Preliminary report of the Royal Commission on Bilingualism and Biculturalism (Laurendeau-Dunton Commission, federal).
1966	Québec refuses to accept the procedure for constitutional amendment, thereafter referred to as the "Fulton-Favreau Formula."
1967	Interprovincial "Confederation of Tomorrow" Conference, Toronto, November 27 to 30, 1967.
1968	Beginning of a series of constitutional conferences ending in June 1971.
	The Legislative Assembly of Québec becomes the National Assembly. The Legislative Council is abolished.
1971	Rejection of the Victoria Constitutional Charter, 1971, which Québec refuses to accept.

1974	Adoption by Québec of the Official Language Act that declares French to be the official language of Québec.
1975	Adoption of the Québec Charter of Human Rights and Freedoms.
1977	Adoption of the Québec Charter of the French language.
1978	Federal bill on constitutional reform (C-60).
	Adoption of the Québec Referendum Act.
1979	Report of the task force on Canadian unity (Pépin-Robarts commission, federal).
1980	Québec referendum on the Sovereignty-Association project, May 20, 1980. The NO vote carries the day with 59,56% of votes cast; the YES vote obtains 40,44%.
	Federal project for the unilateral patriation of the Canadian Constitution along with substantial constitutional amendments.
1981	Constitutional agreement of eight provinces opposing the federal government's unilateral patriation, April 16, 1981.
	Opinion of the Supreme Court of Canada in the Reference for a draft resolution concerning the Constitution of Canada, September 28, 1981.
	Federal-provincial Conference on the Constitution, Ottawa, November 2 to 5, 1981. The federal government and the provinces, with the exception of Québec, agree on the patriation of the Canadian Constitution along with substantial constitutional amendments.
1982	Proclamation on April 17, 1982 of the Constitution Act, 1982, despite Québec's opposition.
	Opinion of the Supreme Court of Canada in the Reference concerning the Constitution of Canada (Québec's *veto*), December 6, 1982.
1985	The government of Québec presents to the federal government a Draft Agreement on the Constitution.
1986	New round of constitutional discussions. Québec makes known its five conditions for endorsing the Constitution Act, 1982.
1987	1987 Constitutional Accord (Meech Lake), June 3, 1987.
1990	Failure of the 1987 Constitutional Accord, Meech Lake, June 22, 1990.
1991	Report by the Commission on the Political and Constitutional Future of Québec (Bélanger-Campeau Commission, Québec), March, 1991.
	Adoption by Québec of An Act respecting the process for determining the political and constitutional future of Québec (Bill 150), June 20, 1991.
	Federal proposals aimed at renewing the federation, September, 1991.

1992	Consensus Report on the Constitution, Charlottetown, August 28, 1992. On October 26, 1992, the Agreement is rejected in Québec by referendum (56,68 % voting NO and 43,32 % voting YES), as well as in the rest of Canada within the framework of another referendum held simultaneously (54,3 % voting NO, the Yes option obtaining 45,7 % of the votes).
1994	Agreement on Internal Trade, July 18, 1994.
1995	Referendum in Québec on the Bill respecting the future of Québec providing for Québec's accession to sovereignty as well as an offer of economic and political partnership with Canada (October 30, 1995). The NO vote carries the day with 50,58 % of votes cast, the YES option obtains 49,42 % of votes cast.
1996	Institution by the federal government of a reference to the Supreme Court of Canada pertaining to Québec's accession to sovereignty. Québec refuses to participate in it.
1997	The Calgary Declaration of first ministers of the provinces, with the exception of Québec, September 14, 1997. Bilateral amendment of section 93 of the Constitution Act, 1867, thereafter making it possible to establish linguistic school boards in Québec.
1998	Opinion of the Supreme Court of Canada on the federal Reference on the secession of Québec, August 20, 1998.
1999	Signature by provincial governments, with the exception of Québec, of the Social Union Framework Agreement, February 4, 1999. Creation of the Nunavut territory by the federal Parliament.
2000	Adoption by the federal Parliament of the Act giving effect to the requirement for the clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference (Bill C-20), June 29, 2000. Adoption by Québec of the Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (Bill 99), December 13, 2000.

INDEX*

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* This index only refers to the contents of the paragraphs in part 1 of this document. Nonetheless, in part 1 the reader will find references to the speeches and documents that make up parts 2 and 3.

Aboriginal nations 174, 214, 220, 225, 250, 313, 338, 352, 402, 462
- Recognition 250, 369
- Self-government 292, 310, 313, 339, 369, 462

Administration of justice 26, 153
- Criminal justice for young persons 466, 467

See also correctional services, courts

Administrative agreements (general concept) *See federalism (administrative reform)*

Administrative reform *See federalism*

Agreement on Internal Trade *See trade (internal)*

Agriculture 26, 84, 283, 351

An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State (Bill 99) 400, 401, 402, 403

An Act respecting the process for determining the political and constitutional future of Québec (Bill 150) 301, 309, 311, 312, 333, 338, 340

An Act to give effect to the requirement for clarity as set out in the Opinion of the Supreme Court of Canada in the Quebec Secession Reference (Bill C-20) *See Québec's accession to sovereignty*

Ancillary power 54

Asymmetry 317, 388
- By the effect of an opting-out right 108
- By the effect of delegation of powers 79, 109, 142
- Status and specific powers for Québec 49, 50, 226, 388

Autonomy
- Budgetary 101
- Fiscal *See distribution of financial resources*
- Provincial (general concept) 4, 6, 17, 18, 19, 20, 48, 134, 446
- Québec (general concept) 48, 108, 353, 408, 409, 410, 446
- Self-government *See Aboriginal nations*

Bankruptcy 84

Banks 84, 429 *See also financial institutions*

Bélanger-Campeau Commission *See Commission on the Political and Constitutional Future of Québec*

Biculturalism 60, 69, 70, 94, 98, 106, 128, 139 *See also culture, duality, equality, pact*

Bilingualism *See language*

Bill 1, entitled an Act respecting the future of Québec 352

Bill 99 *See An Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State*

Bill C-20 *See Québec's accession to sovereignty*

Borrowing power 26

Calgary Declaration 387, 388, 444

Canada Clause 304, 313

Canada-wide standards and objectives 238, 279, 291, 323, 336, 361, 362, 409, 433, 435, 437, 439, 448 *See also spending power*

Canadian Charter of Rights and Freedoms *See human rights and freedoms*

Canadian union 76, 84

Canadian unity 5, 12, 31, 286

Census and statistics 84

Centralization 3, 109, 142, 144, 452 *See also unitarianism*

Charlottetown Accord 312, 313, 314, 353, 364, 392

Childhood *See family and childhood*

Cities *See municipal institutions, urban development*

Citizenship 174, 352

Civil law (general concept) 22, 26, 29, 92, 209, 242, 268, 431, 432

- Civil procedure 26

Collective rights 74, 89, 90, 91

Commission on the Political and Constitutional Future of Québec 298, 299, 307, 309, 333, 338, 340, 353

Common economic space 174, 352, 372, 373, 425, 428, 454, 465 *See also economic union, trade*

Communications 135, 147, 188, 189, 190, 219, 226, 229, 257, 295, 296, 351, 371, 372

- Federal communications agencies 98, 147, 229, 313
- Radio and television 83, 84, 98, 113, 147, 190, 226, 229, 230, 363, 449
- Satellites 191

Confederation *See federalism, pact*

Constituent Assembly 308, 352

Constitution Act,1982 224, 225, 241, 274, 275, 277, 281, 405, 451 *See also patriation of the Canadian Constitution*

Constitution of Québec 88, 90, 265, 352, 363

Constitutional amending procedure 177, 222, 254, 406

- Bilateral procedure 405
- Constitutional agreement, April 16, 1981 222
- Constitutional right of opting-out with compensation 222, 224, 256, 279, 281, 315
- Developing projects for constitutional amendment 136
- Fulton-Favreau Formula 43
- General procedure ("7 / 50") 222, 279
- Need for consent of provinces 1, 15, 16, 46
- Quebec's *veto* 44, 45, 223, 224, 255, 256, 277, 310, 313, 315
- Regional *veto* 137
- Unanimous procedure 222, 279

See also constituent assembly, constitutional negotiations

Constitutional negotiations (general concept) 280, 306, 308, 335, 404

Consumer protection 429, 432, 433

Correctional services 84, 153, 199

Courts 254

- Constitutional court 31, 92, 93, 94, 122, 164, 208
- Court decisions on constitutional affairs 136, 142, 206, 239, 240, 341
- Court of Appeal 26, 32, 121, 209
- Courts of civil and criminal jurisdictions 26
- Family courts 114, 236
- Federal courts 121
- Judicial Committee of the Privy Council 31
- Superior courts 95, 121, 209, 243, 269
- Supreme Court of Canada 31, 164, 222, 242, 266, 267, 268, 277, 279, 281, 288, 313, 315 *See also federal institutions, Québec's accession to sovereignty (federal reference to the Supreme Court of Canada)*

Culture 42, 56, 58, 72, 78, 82, 99, 113, 116, 135, 138, 139, 143, 165, 188, 197, 219, 270, 295, 296, 313, 322, 351, 371, 424, 426

- Arts and letters 78, 99, 154
- Cinema 84
- Cultural affirmation 127, 128, 129, 130, 134, 135, 166
- Cultural development 129, 147, 165, 221, 273, 285
- Cultural security 135, 220, 282, 313
- Historic and cultural heritage 154, 198, 258

See also biculturalism, Québec's identity

Currency 174, 352

Customs tariffs 174, 195, 352

Decentralization 73, 79, 109, 132, 134, 138, 141, 142, 144, 249

Declaratory power 86, 156, 204, 237 *See also works and undertakings*

Defence 174, 229

Delegation of powers 79, 81, 109, 142

Distribution of financial resources 131, 289, 290

- Balance between powers and financial resources 20, 21, 33, 62, 102, 111, 138, 166, 167, 290, 348, 367
- Federal financial disengagement and fiscal or financial compensation 211, 290, 291, 336, 354, 356, 359, 360, 362, 366, 376, 410, 411, 412, 442, 454, 460
- Federal subsidies and transfers 18, 21, 27, 35, 36, 65, 124, 235, 248, 249, 259, 290, 291, 324, 336, 348, 365, 366, 411
- Financial autonomy (general concept) 18, 20, 27, 33, 35, 68, 124, 127, 367, 409, 423, 457
- Need for a new distribution of financial resources 34, 67, 68, 75, 102, 103, 212, 367
- Need for clear provincial fiscal powers 26
- Opting-out with fiscal or financial compensation 64, 66, 100, 102, 157, 171, 172, 173, 203, 259, 279, 290, 291, 313, 321, 337, 356, 410, 414, 419, 435, 441, 442, 443, 444, 445, 446, 448, 456
- Program for guaranteeing tax revenues 173
- Stabilization of provincial revenues 87

See also borrowing power, equalization payments, fair share of federal expenditures, spending power, tax system

Distribution of powers (general concept) 110, 316, 342, 407, 409, 410, 411, 453

- Need for a reform 7, 43, 75, 77, 78, 104, 107, 177, 178, 218, 221, 254, 310, 316
- Need for a *veto* for Québec 44, 45, 223, 256, 310
- Opting-out right from a constitutional amendment 222, 256, 279, 281, 315
- Overlapping and duplication 52, 54, 85, 221, 310, 316, 318, 331, 344, 346, 347, 361, 410, 420, 429, 430, 436
- Protection of human rights and freedoms 88, 90, 120, 160, 161
- Québec's affirmation 49, 104, 127, 139, 140, 218, 221, 226, 310, 318, 408

See also asymmetry, centralization, decentralization, delegation of powers, special status, unitarianism

Duality 74, 78, 94, 106, 176, 207, 220, 244, 279, 288, 426 *See also biculturalism, equality*

Duplication *See distribution of powers*

E

Economic development 51, 67, 78, 147, 165, 166, 193, 219, 221, 226, 227, 246, 249, 257, 273, 285, 295, 296, 327

Economic policies 52, 123, 131, 163, 168, 170, 174, 180, 181, 227, 341, 461

Economic union 310, 341

Economy *See common economic space, economic development, economic policies, economic union, federalism (economic interests)*

Education 22, 24, 25, 26, 27, 32, 51, 56, 78, 84, 99, 113, 143, 226, 238, 246, 270, 323, 330, 371, 417, 424, 433, 436
- Adult education 82, 226, 234 See *also employment and labour*
- Education allowances 66
- Educational radio-television 113
- School fees 235, 447
- Student loans and bursaries 66, 235, 419, 420, 448
- Universities and post-secondary education 25, 27, 38, 40, 82, 173, 235, 290, 323, 324, 366, 418 *See also research and development*

Emergency 155, 229, 237 *See also exceptional federal powers*

Employment and labour 56, 144, 151, 174, 257, 325, 344, 355, 421
- Job creation 233
- Labour mobility 233, 351, 352
- Labour training 82, 84, 116, 313, 325, 326, 345, 355, 421
- Manpower placement 84, 99, 116, 421
- Vocational training 82, 234, 246, 323, 325, 326, 355

See also unemployment insurance, work

Energy *See natural resources*

Environment 113, 117, 332, 351
- Environmental assessment 331, 332, 434
- Harmonization 434
- Natural heritage 198

Equality
- as regards electors 391, 396, 400
- as regards founding peoples 224, 226, 394 *See also pact*
- as regards partners within the framework of Sovereignty-Association 174
- as regards provinces 353, 388
- as regards two founding ethnic groups 41
- as regards two nations 69, 78, 216

Equalization payments 87, 169, 173, 213, 248, 249, 289, 350

Exceptional federal powers 7, 8, 59, 155, 237

Expropriation 84, 237

F

Fair share of federal expenditures 169, 187, 337, 368, 416, 418, 420, 460, 461

Family and childhood
- Early childhood development 416
- Family allowances 27, 84, 99, 115, 116
- Family courts 114
- Family policy 115, 413, 414
- "National" child benefit 413, 414, 415, 452
- Nurseries and day care centres 448
- Parental insurance 415

See also marriage and divorce

Federal institutions (general concept) 46, 75, 91, 165, 178, 334

See also House of Commons, Senate, Supreme Court of Canada

Federalism 5, 12, 134, 218, 219, 251, 273, 299, 303, 309, 310, 353, 364, 388, 425

- Administrative reform 50, 310, 326, 407, 409, 452, 453, 454
- Asymmetric *See asymmetry*
- Basis 278
- Cooperative 62, 310, 316
- Economic interests 12, 106, 425
- Executive 341
- Guarantee for minorities 12
- Issuing from the free consent of the provinces 10

See also autonomy, canadian unity, pact, provinces (provincial sovereignty), unitarianism

Federal proposals, September, 1991 304, 310, 341

Federal subsidies 99

- Direct to individuals and organizations 211, 270, 448
- To municipalities 99, 247
- To universities 27, 38, 40

Financial institutions (general concept) 84, 284, 346, 351, 429

See also banks, securities

Fisheries 26, 184, 232, 356

Food and drugs 84

French-Speaking and Acadian Communities of Canada 293, 294, 340, 371, 463

- Education in the language of the minority 215, 263
- Québec's policy 371
- Reciprocity, mutual assistance, cooperation 215, 271, 371

See also International Francophonie, language

Fulton-Favreau Formula 43

Globalization 425

- Multiplication of exchanges between countries 57

Governor general 210

- Constitutional amending procedure 222

Health 25, 26, 51, 56, 78, 84, 99, 116, 144, 145, 201, 290, 330, 354, 418, 422, 435, 436

- Health insurance 56, 113, 171, 173, 290, 366
- Hospitalization insurance 39, 65, 171, 173, 366

Hospitals *See health*

House of Commons 279, 281, 313, 315 *See also federal institutions*

Housing 82, 84, 146, 313, 337, 361, 368, 412, 460

Human rights and freedoms 90, 118, 161, 239, 254, 333

- Canadian Charter 88, 92, 93, 107, 119, 120, 160, 205, 224, 239, 241, 264, 304
- Override clause 241, 287, 313
- Québec Charter 88, 90, 160, 265

Immigration 84, 135, 151, 152, 226, 257, 277, 279, 282, 313, 319, 320, 321, 377

Incorporation of companies 84

Industrial policy 186

Infinitely extensible powers 80

Insurance 26

Intergovernmental relations 61, 62, 335, 364, 455
- Intergovernmental machinery 75, 96, 341, 437, 439, 452, 453
- Joint actions by provinces 246, 445, 446

See also constitutional negotiations, federalism (administrative reform)

International Francophonie 257, 340, 463
- International community of French-Speaking peoples 42

International relations 57, 113, 226, 257, 329, 402, 425
- International cooperation 84, 148
- Organizations and international forums 57, 84, 174, 352, 424
- Treaties 57, 84, 174, 272, 294, 352

See also International Francophonie

Justice *See administration of justice, correctional services, courts*

Knowledge 324, 461 *See also education, research and development*

Labour *See employment and labour*

Language 42, 78, 89, 104, 118, 139, 162, 221, 261, 279, 286, 295, 313, 402
- Bilingualism 60, 77, 104, 118
- Constitutional amending procedure 222
- Language rights 91, 118, 206, 224, 240, 263, 293, 333, 402, 449
- Linguistic school boards 405, 417, 450
- Status of the French language 60, 118, 129, 261, 282, 286, 333, 402

See also French-Speaking and Acadian Communities of Canada, Québec English-Speaking Community

Leisure activities 84, 146, 197, 313, 412

Lieutenant governor 451
- Constitutional amending procedure 222

Marriage and divorce 26, 84, 114, 236, 257

Meech Lake Accord 278, 279, 297, 306, 310, 315, 335, 341, 353, 364, 404

Minorities 12

See also Aboriginal nations, French-Speaking and Acadian Communities of Canada, language, Québec English-Speaking Community

Mobility 99, 224, 233, 351, 440, 448

Monarchy 76
- Constitutional amending procedure 222

See also governor general, lieutenant governor

Monetary union 174

Municipal institutions 26, 32, 82, 84, 246, 313, 359
- City and town planning 84, 146
- Local public services facilities 146

See also urban development

Municipalities *See municipal institutions*

Nation 69, 70, 75, 77, 78, 85, 97, 101, 216, 218, 353, 377, 387
- Distinct national community 216, 217
- National freedom and security 34
- National identity 219
- National traditions 24

See also people, society

Natural resources 25, 26, 84, 149, 226, 231, 237, 351
- 200 mile economic zone 183, 184, 231
- Continental shelf 84, 231
- Energy 150, 351
- Forests 313, 412
- Mines 113, 183, 192, 231, 313, 412
- Provincial property 194, 237

See also parks, territory

Overlapping *See distribution of powers*

Pact
- Federative pact 1, 411
- Need for consent on the part of contracting parties 16
- Pact between two peoples 11, 388

Parks 198, 258

Patriation of the Canadian Constitution 14, 135, 177, 222, 223, 254, 276, 278, 289, 353, 406
- Constitutional agreement, April 16, 1981 222
- Constitutional agreement, November 5, 1981 223
- Constitutional preamble 220
- Fulton-Favreau Formula 43
- Victoria Constitutional Charter 133

See also Constitution Act, 1982

Peace, order and good government 155, 313 *See also exceptional federal powers*

People 24, 48, 68, 70, 129, 220, 223, 224, 226, 252, 253, 313, 318, 353, 377, 379, 380, 382, 383, 387, 388, 389, 394, 395, 401, 402, 403, 408, 409, 411, 424, 455 *See also nation, self-determination, society*

Personal information 430, 431, 432

Powers of reservation and disallowance 30, 86, 237, 260

Professions and trades 25, 26, 82, 448

Property 26, 29, 84, 194, 237

Provinces 221
- Creation of new provinces 137, 255, 279, 281, 313, 315
- Equality of provinces 353, 388
- Founding parties 10, 16
- Joint actions 246, 445, 446
- Provincial sovereignty 2, 9, 17, 47, 65, 204, 402
- Proximity of local needs 3, 23, 51, 151, 179, 180, 228 *See also Québec (role of Québec and its government)*

Public service 26

Québec
- Demographic situation in Canada 282, 320
- Role of Québec and its government 41, 53, 71, 77, 105, 128, 129, 143, 162, 185, 189, 193, 216, 218, 226, 227, 257, 279, 313, 324, 424, 438, 442 *See also provinces (proximity of local needs)*

Québec Charter of Human Rights and Freedoms *See human rights and freedoms*

Québec English-Speaking Community 333, 352, 363, 449
- Education in the language of the minority 215, 263, 363, 449, 450
- Established rights 402, 450
- Health and social services 262, 449
- Institutions 262, 333
- Reciprocity agreements 215

See also language

Québec's accession to sovereignty 174, 245, 299, 305, 309, 311, 312, 352, 353, 364, 370, 449
- Economic and political partnership 352, 394
- Economic association integrated into a political structure 305, 394
- Federal Act giving effect to the requirement for clarity as set out in the Opinion of the Supreme Court of Canada in the Québec Secession Reference (Bill C-20) 393, 394, 395, 396, 397, 398, 399
- Federal reference to the Supreme Court of Canada 380, 382, 383, 384, 385, 393, 395, 398
- Sovereignty-Association 174

Québec's identity 130, 140, 219, 257, 273, 275, 310, 424

Referendum Act 174, 381, 402 *See also referendums*

Referendums 174, 217, 302, 309, 311, 312, 314, 352, 353, 378, 381, 383, 384, 392, 431
- Majority threshold 384, 390, 391, 392, 396, 399, 402
- Referendum question 300, 384, 393, 394, 395, 399

Reference on the Secession of Québec *See Québec's accession to sovereignty*

Regional development 53, 56, 63, 99, 289, 313, 327, 351

Republic 76

Research and development 99, 187, 283, 461
- University search 82, 113, 324, 418

Residuary power 86, 159, 237

Right to self-determination *See self-determination*

Second World War
- 1942 Tax Rental Agreement 9
- Exceptional provisional powers 7, 8
- Federal post-war program 35

Securities 84, 113, 328, 346, 357, 427, 428

Self-determination 175, 216, 217, 221, 223, 252, 297, 298, 300, 301, 302, 378, 379, 381, 383, 384, 399, 402, 408, 455

Senate 97, 178, 207, 244, 279, 313, 334
- Constitutional amendment 222, 279, 281, 313, 315
- Federal Chamber 97, 313

Shared-cost programs (general concept) 64, 100, 101, 157, 171, 172, 279, 313, 336, 365, 366, 435, 448
- Health insurance *See health*
- Hospitalization insurance *See health*
- Post-secondary education *See education*

Social 19, 22, 23, 138, 143, 144, 219, 226, 285, 295, 296, 330, 336, 362, 365, 366, 376, 414, 416
- Income security 133, 144, 166, 366, 435, 436
- Pensions 55, 84, 99, 116
- Québec's specificity 23, 58, 116, 219, 442, 444
- Social development 51,147, 165, 166, 273, 285

- Social Security 25, 56, 58, 78, 84, 85, 116
- Social services 144, 145, 200, 435
- Social union 389, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 452
- Social work 56
- Specific needs of the citizenry 23, 438, 442, 448

See also education, employment and labour, family and childhood, health, housing

Social Union Framework Agreement *See social (social union)*

Society 42, 70, 74, 85, 104, 118, 126, 296, 299, 318, 324, 325, 330, 377, 392, 402
- Distinct society 128, 130, 132, 221, 224, 275, 277, 279, 286, 297, 304, 310, 313, 320, 353, 387, 431
- Uniqueness in character 387, 444

Sovereignty-Association 174 *See also Québec's accession to sovereignty*

Special status *See asymmetry*

Specificity, sense of identity 41, 44, 49, 162, 212, 274, 275, 288, 295, 296, 344, 346, 389, 442, 444 *See also asymmetry, nation, people, Québec's identity, Québec, social (Québec's specificity), society*

Spending power 87, 157, 158, 203, 238, 246, 259, 277, 279, 285, 313, 331, 347, 435, 441, 442, 443, 444, 445, 446, 447, 448 *See also Canada-wide standards and objectives, federal subsidies, shared-cost programs*

Sports 84

Statistics *See census and statistics*

Status of women 228, 289

Supreme Court of Canada *See courts (Supreme Court of Canada), Québec's accession to sovereignty (federal reference to the Supreme Court of Canada)*

Tax points *See distribution of financial resources*

Tax system 84, 125, 149, 195, 289, 351, 423
- 1942 Tax Rental Agreement 9
- Canada Customs and Revenue Agency 423
- Consumption tax 289, 367, 458, 459
- Customs *See customs tariffs*
- Direct taxation 21, 28
- Estate tax and succession duty 29, 67, 84, 102, 113, 149
- Gift taxes 67, 149
- Income tax 29, 37, 67, 102, 458
- Property tax 84
- Provincial university educational tax 40
- Tax collection 34, 423, 458
- Tax harmonization 349, 367, 458, 459

See also distribution of financial resources

Telecommunications *See communications*

Territory
- Borders 279, 386, 398 *See also integrity*
- Colonization 26
- Environmental management 138
- Gulf of Saint Lawrence 182, 184, 231, 232
- Integrity 174, 250, 310, 313, 339, 352, 386, 397, 398, 402
- Management of waterways 117

- Organization 56, 82, 84, 138, 143, 146
- Ownership of the public domain 84

See also natural resources, parks

Tourism 196, 313, 412

Trade

- Canada-United States Free Trade Agreement 295
- E-Trade 430, 431, 432
- Internal 341, 351, 372, 373, 454, 464, 465
- International 272, 283, 295, 296, 364, 372, 464
- Interprovincial 237, 283

See also common economic space, economic union

Traditional (fundamental, historic) demands 280, 389, 438, 441, 453

Transport 351, 372

- Air transport 174, 229, 359
- Railway transport 358, 374, 375
- Road transport 25, 27, 56, 65, 84, 113
- Sea transport 174, 360, 376

Unemployment insurance 4, 313, 325, 355, 415, 421

Unitarianism 92, 389, 411, 455

Urban development 82, 84, 113

Victoria Constitutional Charter 133, 137, 159

War *See Second World War*

Work

- Employment conditions 56, 84
- Labour relations 84, 202

See also employment and labour

Works and undertakings 84 *See also declaratory power*